



Pharmaceutical WHOLESALE Services Contract

Minnesota Multistate Contracting Alliance for Pharmacy

SWIFT Contract No. :

This Contract is between MMCAP of Minnesota, acting through its Commissioner of Administration, on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("State" or "MMCAP") and Morris & Dickson Co., LLC, 410 Kay Lane, Shreveport, Louisiana 71115, ("WHOLESALE").

Recitals

1. Under Minn. Stat. § 16C.03 and § 471.59, the Commissioner of Administration, on behalf of MMCAP, is empowered to engage such assistance as deemed necessary.
2. MMCAP, a group purchasing organization as defined in 42 U.S.C. § 1320a-7b(b)(3)(c), is in need of pharmaceutical WHOLESALE to distribute pharmaceuticals, OTCs, nutritionals, vaccines (other than influenza vaccines), and other products to its members.
3. The WHOLESALE represents that it is duly qualified and agrees to perform all services described in this Contract to the satisfaction of MMCAP.

Contract

1. Term of Contract and Exhibits

- 1.1 **Effective date:** November 1, 2014, or the date MMCAP obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. **The WHOLESALE must not begin work under this contract until this contract is fully executed and the WHOLESALE has been notified by MMCAP's Authorized Representative to begin the work.**
- 1.2 **Expiration date:** October 31, 2016, or until all obligations have been satisfactorily fulfilled, whichever occurs first. The Contract may be extended for up to an additional three (3) years, at increments determined by MMCAP, on written acceptance by both parties, for a total term not to exceed five (5) years.
- 1.3 **Survival of terms.** The following clauses survive the expiration or cancellation of this Contract: 2. Definitions; 5. Fees and Payment; 6. Conditions of Payment; 8. Notices; 10. Indemnification; 11. Audits; 12. Government data practices; 13. Intellectual Property and Data Rights; 17. Publicity and endorsement; 18. Governing law, jurisdiction, and venue; 19. Data disclosure; 30. Severability; and 36. State Terms and Participation.
- 1.4 **Attachments.** The following *Attachments* are attached and incorporated into this contract, and are set forth in their order of precedence:

Attachment A, Scope of Work

Attachment B, Other Fees

Attachment C, Service Fee Discount Matrix

Attachment D, Wholesalers Returned Goods Policy

Attachment E, Member Participating Agreements (MPA), and its Exhibits, if applicable

2. Definitions

To the extent that they do not diminish, derogate, or otherwise modify the express language set forth in this Contract, the definitions set forth in any exhibits or attachments, as attached and incorporated herein, shall apply to the Contract document.

3. Time

The WHOLESALER must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

4. WHOLESALER's duties

The WHOLESALER, who is not a State employee, will perform the duties specified in *Attachment A, Scope of Work*, which is attached and incorporated into this Contract.

5. Fees and Payment

5.1 Additional Fees. Subject to *Attachment B*, no fee, percentage, or other cost may be added to the products purchased under the MMCAP contract unless the fee, percentage, or cost is defined and approved in writing by MMCAP and a formal amendment is executed.

5.2 Fees. Subject to *Attachment C*, as attached and incorporated herein, all changes to the MMCAP Service Fee Matrix will be communicated to MMCAP in writing with a minimum of five (5) business days' notice prior to the effective date of the changes. WHOLESALER service fees may only change on a quarterly or less frequent basis.

5.3 Federal funds. Payments under this contract may be made from federal funds. The WHOLESALER is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the WHOLESALER's failure to comply with federal requirements.

6. Conditions of payment

All services provided by the WHOLESALER under this contract must be performed to the satisfaction of MMCAP and the MMCAP Member, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations.

7. Authorized Representative

MMCAP's Authorized Representative is Ms. Debra López-Burandt, MMCAP WHOLESALER Coordinator, 112 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155, 651-201-3053, debra.lopez-burandt@state.mn.us or her successor or designee, and has the responsibility to monitor the WHOLESALER's performance and the authority to accept the services provided under this Contract. If the services are satisfactory, MMCAP's Authorized Representative will certify acceptance on each invoice submitted for payment.

The WHOLESALER's Authorized Representative is Chad Runeberg, Sr. Director Health Systems at the following business address and telephone number, 1776 Woodstead Court, Suite #125, The Woodlands, TX 77380, 281-292-9180, cruneberg@morrisdickson.com or his/her successor. If the WHOLESALER's Authorized Representative changes at any time during this Contract, the WHOLESALER must immediately notify MMCAP.

8. Notices

If one party is required to provide legal notice or notice under the terms of the contract to the other, such notice will be in writing and will be effective upon dispatch. Delivery shall be by certified United States mail, or by email or facsimile transmission provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices should be addressed as follows:

MMCAP WHOLESALER Coordinator
Minnesota Multistate Contracting Alliance for
Pharmacy
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651-201-3053

Morris & Dickson
Mike Casida
Director, Health Systems
1776 Woodstead Court Suite # 125
The Woodlands, TX 77380
Fax: 281-292-9214

9. Assignment, amendments, waiver, and contract complete

9.1 **Assignment.** The WHOLESALER may neither assign nor transfer any rights or obligations under this Contract without the prior consent of MMCAP and a fully executed assignment agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office. MMCAP may not assign or transfer any rights or obligations under this contract to any entity outside the State of Minnesota executive branch, without the prior consent of WHOLESALER and a fully executed assignment agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office.

9.2 **Amendments.** Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Contract, or their successors in office.

9.3 **Extraneous Agreements.** Except as set forth in Section 38, the WHOLESALER shall not enter into any additional agreement, with any MMCAP Member, arising from this Contract for similar services, or amend this Contract in any way, without the written authorization of MMCAP's managing director. Nothing herein shall prohibit Wholesaler from responding to solicitations issued by MMCAP Members.

9.4 **Waiver.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

9.5 **Contract complete.** This Contract contains all negotiations and agreements between MMCAP and the WHOLESALER. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

10. Indemnification

The WHOLESALER must indemnify, save, and hold MMCAP and MMCAP Member, including their agents, and employees harmless from any claims or causes of action, including attorneys' fees incurred by MMCAP or its MMCAP Member, arising out of the performance of this Contract by the WHOLESALER or the WHOLESALER's agents or employees. This clause will not be construed to bar any legal remedies the WHOLESALER may have for MMCAP's or the MMCAP Member's failure to fulfill its obligations under this Contract. Pursuant to the Minnesota Constitution Article XI, Section 1, MMCAP is not permitted to indemnify the WHOLESALER.

11. Audits

11.1 **State Audit.** Under Minn. Stat. § 16C.05, subd. 5, the WHOLESALER's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, MMCAP, and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Contract.

11.2 **Invoice and Pricing Audit.** MMCAP and MMCAP Members served by this Contract may periodically audit WHOLESALER to determine the validity of invoice pricing. Such audits may be conducted only during ordinary business hours and upon reasonable notice.

- 11.3 **Costs.** WHOLESALER, MMCAP, and MMCAP Members shall each be responsible for its own costs associated with any audit, including costs related to the production of records and/or other documents requested by the other party.

12. Government data practices

- 12.1 **Data Practices Act.** The WHOLESALER and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. ch. 13, as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the WHOLESALER under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. ch. 13, by either the WHOLESALER or the State.
- 12.2 **Notification.** If the WHOLESALER receives a request to release the data referred to in this clause, the WHOLESALER must immediately notify and consult with MMCAP's Authorized Representative as to how the WHOLESALER should respond to the request. The WHOLESALER's response to the request shall comply with applicable law.
- 12.3 **Release of MMCAP data.** Except as may be required by Minnesota Data Practices Act, Minn. Stat. Ch. 13, or as provided in Section 13, WHOLESALER shall not release to any third party any MMCAP customer data, sales transaction data, DEA/HIN information, contract pricing, EDI transaction data, reverse distribution data, or payment data.

13. Intellectual Property and Data Rights.

- 13.1 **MMCAP Ownership.** MMCAP owns all rights, title, and interest in MMCAP customer data, sales transaction data, DEA/HIN information (subject to third-party rights), contract pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP grants to WHOLESALER an unlimited, non-revocable, nontransferable, fully paid license, for the term of this contract, to (i) release state specific data to an MMCAP Member's State primary contact; (ii) release any of the above data to product manufacturers, when necessary for the performance of this contract or as required by WHOLESALER's agreements with such product manufacturers; (iii) to release any of the above data to other MMCAP-approved third parties, when necessary for the performance of this contract; (iv) to provide MMCAP Member purchase data to aggregators, including IMS Health and NDC Health, subject to WHOLESALER's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party; and (v) to provide MMCAP Member purchase data to other group purchasing organizations of which the MMCAP Member is also a member, provided such data will not include MMCAP-identifiable data. Any MMCAP identifiable data provided hereunder to a third party must identify the data as MMCAP data and subject to Minn. Stat. Ch. 13. WHOLESALER hereby agrees that in the event that an MMCAP Member or MMCAP Member requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.
- 13.2 **WHOLESALER Ownership.** WHOLESALER owns all rights, title, and interest to any aggregated data not identifiable as arising from this contract and any other intellectual property created for or presented to MMCAP. WHOLESALER grants to MMCAP an unlimited, non-revocable, non-transferable, fully paid, perpetual license, to use all intellectual property created for or presented to MMCAP under this contract.
- 13.3 **Pre-Existing Intellectual Property.** MMCAP and WHOLESALER shall each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. WHOLESALER grants to State an unlimited, royalty-free, paid up, perpetual, non-exclusive, irrevocable, non-transferable license to use and modify any pre-existing WHOLESALER intellectual property, including marketing materials and materials contained in solicitation responses provided by WHOLESALER to MMCAP or an MMCAP Member. The

aforementioned license is solely for use by MMCAP and MMCAP Members, and their agents related to an internal business or governmental purposes.

13.4 ***Intellectual Property Warranty and Indemnification.*** Except as otherwise set forth below, WHOLESALER warrants that any materials, software or products produced by WHOLESALER will not infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against MMCAP, MMCAP will promptly notify WHOLESALER. WHOLESALER, at its own expense, will indemnify; defend to the extent permitted by the Minnesota Attorney General's Office, and hold harmless MMCAP against any loss, cost, expense, or liability (including reasonable legal fees) arising out of such a claim, whether or not such claim is successful against MMCAP.

13.4.1 If such a claim has occurred, or in the WHOLESALER's opinion is likely to occur, the WHOLESALER will either procure for MMCAP the right to continue using the materials or products or replacement or modified materials or products. If an option satisfactory to MMCAP is not reasonably available, MMCAP will return the materials or products to the WHOLESALER, upon written request of the WHOLESALER and at the WHOLESALER's expense. This remedy is in addition to any other remedy provided by law.

13.4.2 In the event of a third party claim of infringement by any material, software or product provided by WHOLESALER or utilized by WHOLESALER in the performance of this contract, but produced by a third party, WHOLESALER's indemnification obligations set forth in Section 13.4 shall apply to the extent that the third party's indemnification obligation to the WHOLESALER is available to MMCAP or WHOLESALER will assist MMCAP in tender of such claim directly to the manufacturer of such material, software or product.

14. Insurance Requirements

A. WHOLESALER shall not commence work under the contract until they have obtained all the insurance described below and MMCAP has approved such insurance. WHOLESALER shall maintain such insurance in force and effect throughout the term of the contract.

B. WHOLESALER is required to maintain and furnish satisfactory evidence of the following insurance policies:

1. **Workers' Compensation Insurance:** Except as provided below, WHOLESALER must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, WHOLESALER will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

\$100,000 – Bodily Injury by Disease per employee

\$500,000 – Bodily Injury by Disease aggregate

\$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts WHOLESALER from Workers' Compensation insurance or if the WHOLESALER has no employees in the State of Minnesota, WHOLESALER must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes WHOLESALER from the Minnesota Workers' Compensation requirements.

If during the course of the contract the WHOLESALER becomes eligible for Workers' Compensation, the WHOLESALER must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP with a certificate of insurance.

2. **Commercial General Liability Insurance:** WHOLESALER is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the WHOLESALER or by a subcontractor or by anyone directly or indirectly employed by the WHOLESALER under the contract. Insurance **minimum** limits are as follows:

\$5,000,000 – per occurrence
\$5,000,000 – annual aggregate
\$5,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
Other; if applicable, please list _____
State of Minnesota named as an Additional Insured, to the extent permitted by law

3. **Commercial Automobile Liability Insurance:** WHOLESALER is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the WHOLESALER will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

C. Additional Insurance Conditions:

- Any deductible will be the sole responsibility of the WHOLESALER and may not exceed \$50,000 without the written approval of MMCAP. If the WHOLESALER desires authority from MMCAP to have a deductible in a higher amount, the WHOLESALER shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that MMCAP can ascertain the ability of the WHOLESALER to cover the deductible from its own resources.
- WHOLESALER's policy(ies) shall be primary insurance to any other valid and collectible insurance available to MMCAP with respect to any claim arising out of WHOLESALER's performance under this contract;
- If WHOLESALER receives a cancellation notice from an insurance carrier affording coverage herein, WHOLESALER agrees to notify MMCAP within five (5) business days with a copy of the cancellation notice, unless WHOLESALER's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to MMCAP;

- WHOLESALER is responsible for payment of Contract related insurance premiums and deductibles;
 - If WHOLESALER is self-insured, a Certificate of Self-Insurance must be attached;
 - WHOLESALER's policy(ies) shall include legal defense fees in addition to its liability policy limits, with the exception of B.4 above;
 - WHOLESALER shall obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
 - An Umbrella or Excess Liability insurance policy may be used to supplement the WHOLESALER's policy limits to satisfy the full policy limits required by the Contract.
- D. MMCAP reserves the right to immediately terminate the contract if the WHOLESALER is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the WHOLESALER. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to MMCAP's authorized representative upon written request.
- E. The successful responder is required to submit Certificates of Insurance acceptable to MMCAP as evidence of insurance coverage requirements prior to commencing work under the contract.

15. Debarment by State, its departments, commissions, agencies, or political subdivisions

WHOLESALER certifies that neither it nor its principals is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. WHOLESALER's certification is a material representation upon which the Contract award was based. WHOLESALER shall provide immediate written notice to MMCAP's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

16. Certification regarding debarment, suspension, ineligibility, and voluntary exclusion

Federal money will be used or may potentially be used to pay for all or part of the work under the Contract, therefore WHOLESALER certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. WHOLESALER's certification is a material representation upon which the Contract award was based.

17. Publicity and endorsement

17.1 **Publicity.** Any publicity regarding the subject matter of this Contract must identify MMCAP as the sponsoring agency and must not be released without prior written approval from MMCAP's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the WHOLESALER individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

17.2 **Endorsement.** The WHOLESALER must not claim that MMCAP, the State of Minnesota, or any Member State endorses its products or services, nor may MMCAP claim that the WHOLESALER endorses its products or services.

18. Governing law, jurisdiction, and venue

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court with competent jurisdiction in Ramsey County, Minnesota. Except to the extent that the provisions of this

Contract are clearly inconsistent therewith, this Contract will be governed by the Minn. Stat. § 336, the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. Parties acknowledge that the predominant purpose of this Contract is for the provision of goods.

19. Data disclosure

Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the WHOLESALER consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the WHOLESALER to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

20. Payment to subcontractors

To the extent applicable, pursuant to Minn. Stat. § 16A.1245, the prime WHOLESALER must pay all subcontractors, less any retainage, within 10 calendar days of the prime WHOLESALER's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

21. Termination

21.1 Termination by the State without cause. The Commissioner of the Minnesota Department of Administration may cancel this Contract at any time, without cause, upon 30 days' written notice to the WHOLESALER. Upon termination, the WHOLESALER will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

21.2 Termination for cause. Either party may cancel this contract at any time, for cause, upon no less than ninety (90) days' written notice to the other party. Upon notice of termination, the noticed party shall have sixty (60) days to cure any defects.

21.3 Termination for insufficient funding. MMCAP may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the WHOLESALER. MMCAP is not obligated to pay for any services that are provided after notice and effective date of termination. However, the WHOLESALER will be entitled to payment for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MMCAP must provide the WHOLESALER notice of the lack of funding within a reasonable time of MMCAP receiving that notice.

22. Non-discrimination (In accordance with Minn. Stat. § 181.59)

The WHOLESALER will comply with the provisions of Minn. Stat. § 181.59 which require:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the WHOLESALER agrees: (1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no WHOLESALER, material supplier, or WHOLESALER, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) that no WHOLESALER, material supplier, or WHOLESALER, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of

race, creed, or color; (3) that a violation of this section is a misdemeanor; and (4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

23. Affirmative action requirements for contracts in excess of \$100,000 and if the WHOLESALER has more than 40 full-time employees in Minnesota or its principal place of business.

The State intends to carry out its responsibility for requiring affirmative action by its WHOLESALERS.

23.1 Covered contracts and WHOLESALERS. If the Contract exceeds \$100,000 and the WHOLESALER employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the WHOLESALER must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A WHOLESALER covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

23.2 Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the WHOLESALER to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

23.3 Minn. R. 5000.3400-5000.3600.

(A) *General.* Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a WHOLESALER's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.

(B) *Disabled Workers.* The WHOLESALER must comply with the following affirmative action requirements for disabled workers.

- (1) The WHOLESALER must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The WHOLESALER agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) The WHOLESALER agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (3) In the event of the WHOLESALER's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (4) The WHOLESALER agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the WHOLESALER's obligation under the law to take

affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

- (5) The WHOLESALER must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the WHOLESALER is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

(C)*Consequences.* The consequences for the WHOLESALER's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State.

(D)*Certification.* The WHOLESALER hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

24. E-Verify certification (In accordance with Minn. Stat. § 16C.075)

For services valued in excess of \$50,000, WHOLESALER certifies that as of the date of services performed on behalf of the State, WHOLESALER and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. WHOLESALER is responsible for collecting all subcontractor certifications and may do so utilizing the *E-Verify Subcontractor Certification Form* available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with WHOLESALER and made available to the State upon request.

25. GPO Representation. MMCAP represents and warrants that it is a "group purchasing organization" as that term is defined under 42 C.F.R. Section 1001.952(j) and that it shall comply with all applicable federal and state laws, rules and regulations, including, but not limited to, the provisions set forth in 42 U.S.C. Section 1320a-7b and the "safe harbor regulations" set forth in 42 C.F.R. Section 1001.952.

26. Contingency Fees Prohibited. Pursuant to Minnesota Statutes § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

27. Risk of Loss, Damage, and Shipping Terms. Shipments under this contract shall be FOB Destination, freight prepaid and allowed, to the MMCAP Member's receiving dock or pharmacy, unless otherwise agreed to by the parties in writing. Title to and risk of loss of the products transfers to the MMCAP Member upon delivery to the MMCAP Member, as set forth above.

28. Force Majeure. Neither party hereto will be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party. Force majeure will not apply to the extent that the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party claiming excuse of performance under this provision must provide the other party prompt written notice of the failure to perform, take commercially reasonable efforts to mitigate the damages caused to all parties, and take all necessary steps to bring about performance as soon as practicable.

29. Default.

29.1 **Failure to Perform.** Upon failure to perform the following services in the time and manner as set forth herein, the following fees shall be paid by WHOLESALER:

- 29.1.1 **Bid Roll.** Upon MMCAP's supplier-wide bid roll effective date, all contracted products shall be loaded, stocked (subject to historical usage), and viewable by all MMCAP Members, or WHOLESALER shall pay the following fee to MMCAP: \$ 2,500/day, until resolved, not to exceed \$25,000 per bid roll.
- 29.1.2 **Reports.** In the event that any report and/or data provided by the WHOLESALER, pursuant to the terms of this Contract, is not received according to schedule, contains incorrect data, incomplete data, or no data, and is more than a minor defect or causes harm to MMCAP's ability to conduct business or its governmental purpose, or WHOLESALER shall pay the following fee to MMCAP: \$ 500/day, until resolved, not to exceed \$5,000 per instance.
- 29.1.3 **Inventory Management and Management of MMCAP Contract Products.** If a contracted NDC (National Drug Code) product is not loaded, stocked, and viewable by all MMCAP Members, as required pursuant to this Contract and within the timelines set forth herein, WHOLESALER shall credit to the MMCAP Member submitting the request an amount equal to twenty-five basis points (0.25%) of previous month's GCN (generic code number) volume class for that Member. WHOLESALER shall credit to the Member within thirty (30) calendar days of the MMCAP Member's original request to stock the product.
- 29.1.4 **Delivery Delays.** Deliveries shall be made by the WHOLESALER in accordance with the time schedules specified in Attachment A or as otherwise agreed upon by the WHOLESALER and MMCAP Member. Where delivery is delayed, WHOLESALER shall credit to the Member a fee of forty five dollars (\$45.00) per order not delivered within 90 minutes of the delivery time scheduled, and for each day the delivery is not received, payable as a credit to the Member within fourteen (14) calendar days of the original delivery date. WHOLESALER shall not be responsible for paying the aforementioned fee for delays outside of its control.
- 29.1.5 **Invoices.** Where WHOLESALER submits subsequent invoices for any fees not related directly to product cost, WHOLESALER shall reference the original invoice number or purchase order number. WHOLESALER shall credit to the Member the amount of forty five dollars (\$45.00) for each subsequent invoice for fees not related directly to product cost submitted that fails to meet the above requirement.
- 29.1.6 **Application of Fees.** The application of fees herein shall not excuse WHOLESALER's performance obligations as set forth in this agreement, nor shall it waive any rights of MMCAP or MMCAP Members to seek any and all available legal and equitable remedies.
- 29.1.7 **Acknowledgement.** WHOLESALER acknowledges that the fees set forth above are not penalties, but rather seek to make MMCAP and MMCAP Members whole for any failure of performance by the WHOLESALER, as based upon good faith estimates as agreed to by the parties.

30. Severability. If any provision of the Contract, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both MMCAP and the WHOLESALER will be relieved of all obligations arising under such provisions. If the remainder of the Contract is capable of performance, it will not be affected by such declaration or finding, and will be fully performed.

31. Dispute Resolution. WHOLESALER and MMCAP Members will handle dispute resolution for unresolved issues using the following procedure.

- 31.1 **Notification.** Parties shall promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time.

- 31.2 **Documentation.** Both the MMCAP Member and the WHOLESALER will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties. The briefing document must be sent by the WHOLESALER to MMCAP, the MMCAP Member, and the WHOLESALER's MMCAP Primary Account Representative.
- 31.3 **Escalation.** If parties are unable to resolve the issue in a timely manner, as specified above, either the MMCAP Member or WHOLESALER may escalate the resolution of the issue to a higher level of management. Where escalation of the issue proves ineffective, either party may contact MMCAP and/or the WHOLESALER's MMCAP Representative for further resolution. When escalated to MMCAP, a teleconference will be scheduled with MMCAP and the WHOLESALER's MMCAP Primary Account Representative to review the briefing document and develop a proposed resolution and plan of action. The plan and timeline must be agreed to by all parties – MMCAP, the MMCAP Member, and WHOLESALER.
- 31.4 **Performance while Dispute is Pending.** Notwithstanding the existence of a dispute the WHOLESALER must continue without delay to carry out all of their responsibilities under this Contract that are not affected by the dispute. If the WHOLESALER fails to continue without delay to perform its responsibilities under this Contract, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP and/or MMCAP members as a result of such failure to proceed shall be borne by the WHOLESALER. This section does not apply in the event that a Participating Facility fails to make timely payment of a non-disputed invoice, and where Wholesaler provides immediate notice to the Participating Facility of the delinquency and provides a reasonable opportunity to cure, as specified in Attachment A, Section 4.13 F.
- 31.5 **Member Rights.** In the event an MMCAP Member cannot resolve a dispute with the WHOLESALER, and the MMCAP Member has worked with MMCAP to resolve the dispute, the MMCAP Member(s) may change its prime WHOLESALER even if the rest of the MMCAP Member state does not wish to change its WHOLESALER.
- 31.6 **No Waiver.** This clause shall in no way limit or waive either party's right to seek available legal or equitable remedies.
- 32. Adding New Members.** If new states are added as MMCAP Members and opt to participate in this contract, the new MMCAP Member state will select a WHOLESALER to service the MMCAP Members. In the event one or more of said facilities are currently using another MMCAP-contracted WHOLESALER, said facility will be allowed to choose if it will transition to WHOLESALER.
- 33. Required Licenses, Permits, and Registration.** WHOLESALER shall have in place prior to the start of the contract, and must maintain for the life of the contract, all current licenses, permits and registrations required by state, local and federal agencies. WHOLESALERS must make such documentation available upon request by MMCAP.
- 34. DEA License/HIN.** WHOLESALER shall not require an MMCAP Member to have a DEA number in order to obtain products unless making orders for controlled substances. MMCAP Member facilities will have HIN numbers assigned by MMCAP.
- 35. Personnel Changes.** WHOLESALER shall notify MMCAP of changes in the WHOLESALER's key personnel, in advance and in writing. Any employee of WHOLESALER, who, in the opinion of MMCAP, is unacceptable, will be removed from the project upon written notice to the WHOLESALER. In the event that an employee is removed pursuant to a written request from MMCAP's authorized representative, the WHOLESALER will have ten (10) working days in which to fill the role with an acceptable employee.
- 36. State Terms and Participation.**

36.1 WHOLESALER may be required, except as set forth in Section 38, to prepare an MMCAP "Member-requested Participation Agreement" (MPA), which is attached and incorporated as Attachment E, to amend this Contract to provide for laws specific to a state or local jurisdiction. If these circumstances exist, the WHOLESALER must work with MMCAP and the MMCAP Member to prepare the MPA. An MPA must clearly apply only to the requesting location and will not affect the rights of the other MMCAP Members, nor will it modify, derogate, or otherwise diminish the rights and obligations set forth herein, except in regard to the applicable named MMCAP Member. No verbal or written instructions from MMCAP Members, or any of their staff or officials may be used to change any provision of this Contract. WHOLESALER will immediately report any such requests to the MMCAP Manager who will issue approval or denial in writing.

36.2 WHOLESALER will comply with all local, state, and federal laws, as applicable to each Member State, in the performance of this contract. MMCAP will not be bound by non-Minnesota state-specific terms contained in an MPA when bringing any action. Nothing contained herein will be deemed a waiver of the State of Minnesota's sovereign immunity.

37. **Contract Transition.** Pursuant to the transition as set forth in *Attachment A*.

38. **Texas Department of State Health Services (TX DSHS)**

In the event of a direct contract between Wholesaler and the TX DSHS, the TX DSHS shall not be a party to this Contract, nor shall the terms of this Contract apply thereto, unless otherwise agreed to in writing by formal amendment to this Contract.

Subject to the above, Wholesaler agrees to: 1) administer MMCAP contracts for eligible TX DSHS facilities; 2) report TX DSHS MMCAP purchases to MMCAP per terms of this Contract relating to contract loads and sales reporting; and 3) pay distributor administrative fee on MMCAP account sales. Distributor Administrative fee will not be paid on Prime Vendor 340B Drug Pricing Program Sales, Prime Vendor DSH sales or on drop shipment sales. Distributor administrative fees for non-contract sales to WAC accounts (related to 340B split bill accounts) may be made available to MMCAP upon formal written request by MMCAP for sales to TX DSHS.

1. MORRIS & DICKSON CO., LLC

The Vendor certifies that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Mark C. O'Leary

Title: DIRECTOR HEALTH SYSTEMS

Date: 11/6/14

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: Sara Tunbary, PharmD, BCPS

Title: Pharmacist Sr.

Date: 11-6-14

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: _____

Title: _____

Date: _____

By: [Signature]

Title: Negotiations Manager

Date: 11/7/14

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4.1 DEFINITIONS

Throughout this Contract, the following terms are used as defined.

340B Drug Pricing Program (340B) - The 340B Drug Pricing Program resulted from enactment of Public Law 102-585, the Veterans Health Care Act of 1992, which is codified as Section 340B of the Public Health Service Act. Section 340B limits the cost of covered outpatient drugs to certain federal grantees, federally-qualified health center look-alikes and qualified disproportionate share hospitals (DSH). Several MMCAP Participating Facilities are eligible and participate in the 340B Drug Pricing Program.

Adequate Supply- A supply of Products made available to the MMCAP Participating Facilities that allow conformity with the parameters of the fill rate and historical purchase patterns.

Bulky Products - MMCAP's definition of Bulky Products include food and food products, home healthcare products (durable medical equipment, such as walking aids, bathroom safety products, wheelchairs and accessories, scooters and lift chairs, etc.), non-contract nutritionals, school and office supplies, non-contract large volume parenterals, and non-contract IV Fluids.

Closed Distribution Products (CDP) - Closed Distribution is either required by the manufacturer or by the FDA. Reasons for the Closed Distribution of a product include patient safety, product stability, or the product is new to the market. Most orders for Closed Distribution Products are passed through the Wholesaler for delivery directly by the product supplier.

Confirmation Printback/Order Confirmation - An electronic confirmation report generated from the Wholesaler's ordering system and sent electronically back to the ordering facility indicating that the requested Products are available, on Manufacturer Backorder, out of stock, or deleted, etc. Also referred to as the Confirmation Printback Report.

Controlled Substance Ordering System (CSOS) - Allows for secure electronic transmission of Schedule I-V controlled substance orders without the supporting paper DEA Form 222.

Drop Shipment(s) - Products ordered by the MMCAP Participating Facilities through the Wholesaler and shipped directly to the MMCAP Participating Facilities from the manufacturer/product supplier. The manufacturer/product supplier notifies and bills the Wholesaler, who then invoices and receives payment from the MMCAP Participating Facility.

EDI - Electronic Data Interchange - Inter-process (computer to computer application) communication of business information in a standardized electronic form.

Manufacturer Backorder(s) (MBO) - An order placed by the Wholesaler to a manufacturer or supplier which is not shipped to the Wholesaler due to industry wide shortages or other supply issues as set forth in Section 5D of Attachment A.

MMCAP Contract Product(s) - Any Product that appears on an MMCAP contract.

MMCAP Contract File Updates – electronic files sent by MMCAP to the Wholesaler which provide batched MMCAP Contract Product and MMCAP contract pricing information. The MMCAP Contract File Updates are usually sent to the Wholesaler on a weekly basis. The first file (titled "Update [sequential number]") details the MMCAP contract changes that have occurred since the last weekly communication from MMCAP. The second file (titled "[sequential number] Contract [8-digit date]") is a listing of the entire

MMCAP contract as of the date provided in the title. The third file (titled “[sequential number] Pending [8-digit date]”) is a listing of the MMCAP Contract Products with future effective dates.

MMCAP Member(s) – Any of the, currently, 48 MMCAP member states plus the Cities of Chicago and Los Angeles and any other members added or deleted during the life of the Contract and any extensions.

MMCAP Participating Facility - Any facility listed by MMCAP as an active participant of MMCAP program. A current listing of MMCAP Facilities is made available to all MMCAP vendors monthly.

Both *MMCAP Member(s)* and *MMCAP Participating Facility* may be referenced as “MMCAP Member(s)”, when applicable, throughout the Scope of Work.

MMCAP Office – The administrative staff of the MMCAP Program responsible for initiating and administering all MMCAP contracts. The MMCAP Office may be referred to synonymously as MMCAP. Located at:

MMCAP
Minnesota Department of Administration
Materials Management Division
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

MMCAP State Contacts – purchasing and pharmacy professionals are designated by MMCAP Member States to serve as liaisons between MMCAP and the MMCAP Participating Facilities in each State. A list of MMCAP State Contacts is available at:
http://www.mmd.admin.state.mn.us/mmcap/background_current_states.htm.

National Drug Code (NDC) – a unique 11-digit number which is a universal product identifier for human drugs. The NDC identifies the labeler code, product code (strength, dosage form, and formulation), and package code (package size and type). All NDCs reported to MMCAP must be in the 5-4-2 configuration.

Next Day Delivery - Orders placed Monday through Thursday by MMCAP Participating Facilities by the designated time as proposed by the Wholesaler which will be delivered the next business day. Orders placed on Friday, Saturday or Sunday must be delivered on the following Monday. Fed Ex/UPS orders placed on Friday containing refrigerated items will be shipped on Tuesday.

Next Scheduled Delivery Day - is the day agreed upon by the Wholesaler and the MMCAP Participating Facility for delivery of Products. For some MMCAP Participating Facilities, the Next Scheduled Delivery Day may not necessarily denote that the delivery will be made within 24 hours.

Non-Contract Product - Any product that does not appear on an MMCAP contract or the 340B Drug Pricing Program contract.

Pedigree - A record containing information regarding each transaction resulting in a change of ownership of a given medication, from sale by a manufacturer, through acquisition and sale by one or more wholesalers, manufacturers, or pharmacies, until final sale to a pharmacy or other person furnishing, administering, or dispensing the medication.

Product(s) - Synonymously used to denote the merchandise requested by the MMCAP Participating Facilities to be delivered through the Wholesaler.

Stock Outage(s) - An occurrence wherein the Wholesaler cannot make available an Adequate Supply of the MMCAP Participating Facility's requested Products.

Wholesaler - Also known as Vendor, Pharmaceutical Prime Vendor, or Prime Vendor, is a business that functions as a purchaser's source of distribution for a wide array of pharmaceutical and related Products as identified by the MMCAP Participating Facility. A Wholesaler is responsible for maintaining and distributing an Adequate Supply of pharmaceuticals and related Products and any other items contracted for that are dispensed through the MMCAP Participating Facilities' pharmacy service.

4.2 SERVICE AREA

As of the Contract effective date, Wholesaler will provide the full range of contracted services under this Contract to MMCAP Participating Facilities and/or MMCAP Members- within the contracted service area specified by the Wholesaler, as a regional service provider. Wholesaler must provide services to all MMCAP Participating Facilities within a state (not partial service coverage). The MMCAP Office (represented by the term MMCAP) reserves the right to add or delete MMCAP Members at any time during the Contract term.

Wholesaler will provide service to the MMCAP Members specified in an amendment.

Wholesaler may service other MMCAP states, regardless of geography, if the MMCAP Member State is willing to accept Fed Ex / UPS deliveries, and other constraints to standard orders, order cut off times and delivery terms (time and methods). MMCAP states outside of the Wholesaler's regional service coverage selecting the Wholesaler will have the applicable operational constraints specified in an amendment.

4.3 CUSTOMER SERVICE

A. Account Management Team for MMCAP.

The Wholesaler will designate an Account Management Team for MMCAP. The Wholesaler will assign an Account Management Team having the depth of experience needed to serve in a solution- oriented role. The principal resources identified by the Wholesaler are confirmed as to having the authority to make decisions on behalf of the Wholesaler and to be empowered to provide accountability. The Account Management Team will be staffed with qualified resources along with additional resources to provide sufficient back-up support in the event that the principal resources become unavailable.

1. Account Management Team for MMCAP (name, email address, telephone number):

Chad Runeberg - Senior Director, Health Systems
(888) 376-7409
cruneberg@morrisdickson.com

Mike Casida - Director, Health Systems
(972) 365-6112
mcasida@morrisdickson.com

Jaime Barouh - National Accounts, Health Systems
(888) 376-7409
jbarouh@morrisdickson.com

Ron Maingot - Account Manager, Health Systems
(210) 722-0069
rmaingot@morrisdickson.com

2. Functional Resource Identification (name, email address, telephone number).
 - a. Contract issues/discrepancies (product stocking, product loading, pricing); Therese Aldrich - Contracts Department Manager, taldrich@morrisdickson.com , (800) 388-3833.
 - b. Class of trade issues (contract eligibility, denials, etc.); Therese Aldrich - Contracts Department Manager, taldrich@morrisdickson.com , (800) 388-3833.
 - c. Issues concerning MMCAP's invoice auditing service:
 - 1) Technical (e.g., electronic 810s); Mike Gray - IT/Answer Resolution, mgray@morrisdickson.com , (800) 388-3833.
 - 2) Discrepancy resolution; Therese Aldrich- Contracts Department Manager, taldrich@morrisdickson.com , (800) 388-3833.
 - d. Service fee discounts; Jaime Barouh, National Accounts, jbarouh@morrisdickson.com , (888) 376-7409.
 - e. Data/Reporting; Jaime Barouh, jbarouh@morrisdickson.com , (800) 388-3833.
 - f. Accounts Receivable; Beverly Barr, bbarr@morrisdickson.com , (800) 388-3833.
 - g. Accounts Payable; Beverly Barr, bbarr@morrisdickson.com , (800) 388-3833.
 - h. MMCAP Shareback Fee process and details. Beverly Barr, bbarr@morrisdickson.com , (800) 388-3833.

The Wholesaler, upon request of MMCAP, will direct the Wholesaler's Primary Account Representative to hold monthly business review conference calls with MMCAP. In addition, the Wholesaler will hold quarterly Executive Business Reviews at MMCAP with the Wholesaler's Primary Account Representative and others from the Wholesaler's Corporate Office to address, at a minimum, the following:

- Sales Data
- Contract Financials (discounts, fees, cost of goods, etc.)
- Contract Compliance/Category Breakdown
- Inflationary/Budget Related Data
- Managed Care News/Updates
- Service Levels by distribution center, by MMCAP Members (state and facility), and for MMCAP as a group
- Contract Activity
- Success Stories and Opportunities Ongoing.
- Pedigree Updates
- Any federal and/or state legislation affecting MMCAP Members and/or the pharmaceutical industry
- Proactive Product Information
- Pharmaceutical distribution impacts and trends; pharmaceutical industry updates

- Contract Activity Reporting
- Compliance Activity Reporting
- Purchase Activity Reporting
- EDI Setup Audits
- Customer Satisfaction
- Relevant current and planned initiatives, both of MMCAP and the Wholesaler, and any associated action plans
- Wholesaler Performance

The Wholesaler and MMCAP agree to conduct a complete contract review no later than March 31, 2015, to determine areas of non-compliance from both parties. This review will be done annually, with the due date tied to the anniversary date of the effective date of the Contract.

In the event MMCAP determines the Primary Account Representative is non-responsive, MMCAP will escalate to:

Mike Casida - Director, Health Systems
(972) 365-6112
mcasida@morrisdickson.com

to take appropriate corrective action for problem resolution.

B. Customer Service Department.

The Wholesaler will provide a customer service department available to MMCAP Participating Facilities. The customer service department is available to MMCAP Participating Facilities Monday - Friday 8:00 am to 6:00 pm Central. The Account Management team will be available 24 hours a day to assist with any issue or concern that may arise during the hours customer service is unavailable.

Customer support is centralized in Shreveport, LA. Customer Service toll free access at (800) 388-3833 or (318) 797-7900, by fax (318) 798-5237, or at dhoskins@morrisdickson.com. Technical Support is available Monday - Friday 8:00 am to 6:00 pm Central. After hours emergency options, including pertinent email addresses and phone numbers, are available in Morris & Dickson's Emergency and Disaster Plan.

C. Customer Account Representatives.

The Wholesaler will provide customer account representatives to MMCAP Participating Facilities and designated account representatives to the MMCAP State Contacts, and where regionally available, the MMCAP Field Services representatives. These customer account representatives are to be responsible for managing the working relationship which includes: ensuring that the Wholesaler remains compliant with all contractual responsibilities and obligations; maximizing adherence to the MMCAP Participating Facility's pharmacy standards; assisting in optimizing the facility's formulary; and consultative services for best practices to improve efficiency and reduce costs.

In managing this relationship, it is expected that the customer account representatives will utilize various relationship management contact options, including the MMCAP Field Services representatives whenever possible, dependent on the needs of the MMCAP Members. In addition, the Wholesaler will conduct periodic reviews with MMCAP Members that evaluate Wholesaler's performance against established service levels, depending on an MMCAP Participating Facility's and/or MMCAP State Contact's desire to hold such reviews.

These relationship management contact minimum touch points are identified as follows:

Average Monthly Purchasing Volume	Frequency of Contact with MMCAP Participating Facilities	Type of Contact
\$0 - \$5,000	Dialogue with MMCAP Participating Facilities at least once quarterly, or more often as requested.	Telephone Call (On-site visit as necessary)
\$5,001 - \$25,000	Dialogue with MMCAP Participating Facilities at least once monthly.	Telephone Call (On-site visit as necessary)
\$25,001 - \$50,000	Business Reviews offered quarterly.	On-site visit or telephone call
\$50,001 - \$75,000	Business Reviews offered quarterly.	On-site visit or telephone call
\$75,001 - \$100,000	Business Reviews offered quarterly.	On-site visit or telephone call
\$100,001 and Up	Business Reviews offered quarterly.	On-site visit or telephone call
State Purchasing Contact	Dialogue offered monthly or as desired by State Purchasing Contact. State contacts are to be included in quarterly Business Reviews desired.	On-site visit or telephone call

For each MMCAP Member State, the Wholesaler will designate an account representative appointed by the Wholesaler's Primary Account Manager to meet with both MMCAP and MMCAP State Contact representatives on a quarterly basis to discuss, at a minimum, the following:

- Customer satisfaction
- Wholesaler performance
- State account performance (COGs, payment terms, etc.)
- Reports (e.g., contract compliance)
- Other pertinent topics

Wholesaler will provide adequate staffing resources for both field operations to provide direct service for the MMCAP Members and corporate operations to assist MMCAP. These resources will provide facility targeted approaches to solve specific problems and determining solutions for operational, contract compliance and inventory management issues. Designated resources may fluctuate up or down depending on volume and business need.

The Wholesaler will make its best efforts to notify MMCAP at least ten (10) business days in advance of any meeting between the Wholesaler, any MMCAP State Contact, and/or MMCAP Participating Facility, and any potential MMCAP State Contact or MMCAP Participating Facility when the meeting topics will address issues beyond standard operation issues including but not limited to requests for proposal, legislative activities concerning any products or services covered by this Contract, or expansion of the Wholesaler's presence in that organization or state. If MMCAP is not an attendee at the meeting, the Wholesaler agrees to provide a detailed account of the meeting to MMCAP not later than five (5) business days after the meeting.

In the event the MMCAP State Contact or MMCAP determines an account representative is non-responsive, MMCAP will escalate to:

Jaime Barouh, jbarouh@morrisdickson.com , (888) 376-7409

to take appropriate corrective action for problem resolution.

D. MMCAP State Contacts and MMCAP Participating Facilities Satisfaction Survey.

Wholesaler will solicit an MMCAP pre-approved, annual survey with all MMCAP State Contacts and a representative random sample of MMCAP Participating Facilities. The goal is an overall average survey score of 3.5 out of 5 points. The Wholesaler will share the raw survey responses for those survey areas that score below 3.5 and will devise an action plan(s) to address deficiencies, presenting status updates at quarterly Executive Business Reviews, or more frequent as appropriate

4.4 NEW ACCOUNTS – Contract Transition and Implementation

A. Selection of Wholesaler/Distributor Options by MMCAP Members

Once the Wholesaler Distribution Service Contract is executed between the Wholesaler and MMCAP, the Wholesaler is expected to respond to invitations from MMCAP Members to be interviewed by the MMCAP Members. MMCAP Members will identify their choice of wholesaler/distributor, and will advise MMCAP of that selection.

If the MMCAP Participating Facility is currently contracting with the Wholesaler for the services, or substantially similar services, as set forth in Attachment A, Wholesaler shall transition each MMCAP Participating Facility from the existing contract (and existing contract terms) to this contract (and its terms) on the 1st day of the month following execution of this contract and in no event later than 30 days from contract execution.

B. Implementation

Upon notification that a MMCAP Member has chosen the Wholesaler to provide distribution services, the Wholesaler is required to establish an implementation plan. This plan will detail the phase-in of the Wholesaler's operations at the MMCAP Participating Facility with a 100% operating level at the onset of the contract effective date.

Satisfaction of a 100% operating level will include:

- a. Installation and testing of all electronic ordering equipment
- b. Training of employees
- c. Bar coding and shelf labeling if requested by facility. MMCAP Participating Facility has the ability to print shelf labels from their facility.
- d. Price loading of all MMCAP contract products as verified by the manufacturers.
- e. Wholesaler's internal inventory preparation and distribution system, based on current MMCAP Participating Facilities' sales and usage data
- f. Wholesaler's plan to ensure that stocking and chargeback agreements are in place with all MMCAP-contracted vendors, as outlined with Section 4.5.

The Wholesaler will also provide an "onboard" process for new accounts. Through this onboard process, the Wholesaler will notify new MMCAP Participating Facilities, in writing, providing specific details on the Wholesaler's required documentation and instructions sufficient to enable the new MMCAP Participating Facilities to complete the documentation. The Wholesaler will promptly notify the MMCAP Participating Facilities in reasonable detail of any missing or incomplete documentation required for the

account set-up. The Wholesaler will complete new account set-ups within 10 business days or sooner from receipt of completed documentation.

If the MMCAP Member is not currently contracting with the Wholesaler, the Wholesaler will also be responsible to specify the documentation and instructions sufficient to enable current MMCAP Participating Facilities to transition from one wholesaler to another after contract award selection. The Wholesaler will promptly notify the MMCAP Participating Facilities in reasonable detail of any missing or incomplete documentation required for account set-up. The Wholesaler will transition each MMCAP Participating Facility to this Contract on the 1st day of the third month following execution, and in no event later than the MMCAP Member's existing contract (including contract extension).

Transition from an existing contract to this Contract must occur on the 1st day of a month, and no other day.

Wholesaler requires the following documents be completed and submitted to Wholesaler prior to opening an account (s) for new and/or MMCAP Participating Facilities transitioning from one wholesaler to another:

- a. Credit Application
- b. Account Conversion - Location Survey
- c. Copies of Pharmacy License and DEA License if applicable
- d. MMCAP Manufacturer Notification Letter

Wholesaler to insert documents (names of documents) to be completed for opening an account, for example: Letter of Authorization, Contract Pricing Declaration Form(s), copies of State Pharmacy License and DEA Certificate (if required for Products ordered), contact name, bill to address, etc.

The Wholesaler is required to provide an inventory of MMCAP Contract Products sufficient to meet the needs of the MMCAP Participating Facilities from the beginning of the MMCAP contracting period. Historical usage data will be provided by MMCAP six weeks prior to the start of the contract period to support the Wholesaler's inventory build-up. Wholesaler must have all MMCAP Contract Products loaded in its ordering system and have a minimum of thirty (30) calendar days' Product supply available to order prior to the contract start date.

In completing this transition, Wholesaler will work with MMCAP and MMCAP Participating Facilities to determine the appropriate steps and schedule, subject to the above, for the transition. Wholesaler acknowledges that the transition may be dependent upon the terms of the existing contracts and subject to the notice provisions contained therein.

Implementation procedure for a new MMCAP Participating Facility:

Week 1

Wholesaler Distribution Services Contract Signed
Provide 12 months detailed usage from the MMCAP to Wholesaler
Provide site listing from the MMCAP to Wholesaler
Communicate conversion team contact listing and schedule calls
Fax/email/mail DEA and state pharmacy licenses
Obtain MMCAP roster and confirm eligibility
Assess customer technology requirements and begin pre-work
Review customer attributes, needs, and expectations
Obtain digital certificate or paper certificate for CSOS

Week 2

Assess customer needs for product catalogs
Establish delivery plan, times, and requirements
Review DC/Customer-Specific Order Cut-Off Time
Load usage, activate/create items, and place orders
Continue ordering pre-work (EDI, ordering system)
Complete account set-up and provide account numbers

Week 3

Delivery route set-ups with couriers are completed
Technology work completed and tested
Create electronic version of new customer Welcome Kits
Confirm pricing eligibility and attach contracts to sites
Create new reports as necessary

Week 4

Send new customer Welcome Kits to each site
Complete site training for ordering system, etc
Send CII blanks, product catalogs, hardware, etc. in tote/box as test order
Outbound calls to each site as follow-up on test delivery and site visit
Confirm Product is received and ready for day-1 orders

Week 5

Send new customer Welcome Kits to each site
Complete site training for ordering system, etc
Send CII blanks, Product catalogs, hardware, etc. in tote/box as test order
Outbound calls to each site as follow-up on test delivery and site visit
Confirm Product is received and ready for Day-1 orders
Request corporate contacts to complete customer survey

Week 6

Schedule post-implementation review
Schedule Business Review meeting

4.5 INVENTORY MANAGEMENT

For the term of this Contract, the Wholesaler is required to have contractual relationships with all current and future MMCAP-contracted Suppliers necessary to provide all MMCAP Contract Products. All exceptions must be approved in writing by MMCAP.

MMCAP reserves the right to modify MMCAP-contracted manufacturers or contracted service providers at any time during the course of the term of the contract with the Wholesaler.

A. Inventory Sufficiency of MMCAP Contract Products.

The Wholesaler is required to sufficiently stock MMCAP Contract Products. Wholesaler is required to stock inventory of MMCAP Contract Product unless there are fewer than three (3) units sold per month per distribution center or demand does not meet the minimum manufacturer requirements. If there is volume of three (3) units or more of an equivalent product, Wholesaler is required to stock inventory of MMCAP Contract Product based on equivalent product sales. MMCAP Contract Products that do not meet the units

sold threshold and which are not stocked will be required to be viewable and available to request for stocking within Wholesaler's online ordering system.

The Wholesaler will be held accountable for any creation of unreasonable barriers in order to stock MMCAP Contracted Product. The Wholesaler will be responsible for proper notification in any of the MMCAP-contracted manufacturers' contracts about to be terminated or expire. Proper notification is defined as notification in writing to MMCAP no later than five (5) business days prior to termination or expiration.

The Wholesaler will be responsible for providing inventory forecasting reports to MMCAP as requested. These reports will monitor and forecast ordering, usage patterns, as well as, identify significant trends, including increases and decreases in purchases. Monthly contract compliance reports to monitor purchases of Non-Contract Products will also be available to the MMCAP upon request.

At initial account set-up, based on usage data from MMCAP, the Wholesaler is required to stock a thirty (30) day's supply of Products. Thereafter, the Wholesaler's buying system will be used to manage the demand by stocking inventory to meet said demand. Wholesaler will carry utilization history (demand) for a minimum of 60 calendar days, decreasing inventory stock of a Product that has not been ordered after the 60 calendar day period. The Wholesaler is required to maintain inventory stocking in accordance to service level and inventory parameters.

The Wholesaler is not allowed to discontinue inventory stocking an MMCAP Contract Product unless there are fewer than three (3) units sold per month or does not meet the minimum manufacturer requirements. For Products marked as non-stock, Wholesaler must submit a monthly report detailing how equivalent generic purchasing is impacting non-movement.

For new MMCAP Contract Product additions, the Wholesaler is required to have the Products loaded, stocked, and viewable in its system and ready for delivery no later than ten (10) business days from the time the Wholesaler receives notification that the Product has been added to the MMCAP contract. If the Wholesaler does not have a current business relationship with the MMCAP Contract Product's manufacturer, the Wholesaler is required to execute a contract with the manufacturer such that the Product will be loaded, stocked, viewable, and ready for delivery within thirty (30) business days. If Wholesaler is unable to establish a contractual relationship with the supplier within the timeline as set forth above, Wholesaler will promptly notify MMCAP in writing.

A MMCAP Participating Facility may request the Wholesaler to add MMCAP Contract Products that may not be currently stocked at an applicable distribution center by contacting customer service or its customer account representative. The requested MMCAP Contract Products are to be available for delivery not later than seven (7) business days from request for Products. If the delay in inventory stocking of the MMCAP Contract Products are due to manufacturer unavailability or other factors outside Wholesaler's control, the Wholesaler will provide verbal or written notice of the delay and the reason for the delay to the requesting MMCAP Participating Facility and MMCAP, if applicable.

B. Bid Roll.

For the term of this Contract, Wholesaler will agree to work with MMCAP during Bid-Roll intervals for both generic and brand MMCAP Contract Products. During each of these intervals, the Wholesaler is required to provide resources to work with MMCAP, supporting weekly meetings for status check-ins, beginning with the receipt of the MMCAP contract files 45 days in advance of the effective date of the specific Bid-Roll interval. The Wholesaler is required to establish and update a confirmation log, which will be utilized for the weekly updates. As the effective date approaches, if daily check-ins should become

necessary to meet process goals, the Wholesaler will support any escalated efforts to ensure that preparations are in place to manage the inventory stocking requirements.

The Wholesaler agrees to provide Inventory Reporting, specific to products that are:

- Allocated
- Manufacturer discontinued
- Wholesaler discontinued
- NDC changes
- Backorders
- No contract with manufacturer status
- No Loads
- Stocking levels by DC

to ensure that Bid-Roll is synchronized for the specific effective date interval of the Contract Product roll.

The Wholesaler agrees to complete an audit of the contract load prior to the effective date of the specific Bid-Roll interval and weekly through the first month that the new contracts are in place.

C. Special Orders.

A MMCAP Participating Facility may request special order through the Wholesaler. For special orders:

- a. All large, one-time orders should be requested through the MMCAP Participating Facility's Wholesaler's account representative or customer service.
- b. Special requests may be, but are not limited to: a) special one-time orders, b) governmental entities placing large orders at the end of their fiscal year, c) items to be added to usage information to ensure they are included as routine stock items at the distribution center, d) large quantities of identical lot numbers
- c. For large volume orders, no more than ten (10) business days for processing and delivery will be required, subject to supplier availability. Wholesaler will need additional time for special requests requiring the same lot number.
- d. Large, one-time orders are not returnable without prior written approval of manufacturer or Wholesaler. Wholesaler commits the resources to working with the MMCAP Participating Facility and the manufacturer to find a solution if the product must be returned.
- e. Stockpiling Program orders are to be facilitated with a Wholesaler designated resource, to provide timely review of the specific items to be purchased, dating, and stocking availability for the order to be fulfilled. Appropriate communication throughout the process, from initiation to delivery, will be provided to the MMCAP Participating Facility as well as the MMCAP Stockpiling Program Coordinator.

D. Stock Outages.

1. Wholesaler Created Stock Outages.

Wholesaler created Stock Outages, meaning Products ordered but not delivered due to Wholesaler's "at-fault" inability to fulfill, will be considered a service failure in the adherence to inventory sufficiency requirements and may be considered grounds for termination of the contract.

One remedy available to an ordering MMCAP Participating Facility for a Wholesaler created Stock Outages will include requirements for the Wholesaler to provide Products ordered but not delivered within three (3) business days following the request by the MMCAP Participating Facility to the Wholesaler's customer service, subject to Next Scheduled Delivery Day limitations imposed by the manufacturer. If Product is transferred from an alternative facilities in order to resolve a Wholesaler created stock outage at

the distribution center where the Product was ordered, the Wholesaler will not be allowed to charge fees attributable to the Product transfer. The Wholesaler is required to work with MMCAP Participating Facilities to fast-track Product delivery on a case-by-case basis, subject to applicable state Pedigree requirements.

As part of the fast-track process, upon request, Wholesaler will instruct the manufacturer to ship directly to the MMCAP Participating Facility for Next Day Delivery if the Product is available from manufacturer and deemed critical by the MMCAP Participating Facility. Any supplier/manufacturer imposed fees or fees to expedite orders for MMCAP Contract Product drop-shipments will be borne by the Wholesaler, for instances of a Wholesaler created Stock Outages.

Another remedy available to an ordering MMCAP Participating Facility if the Wholesaler fails to make prompt shipment of MMCAP Contract Products due to Wholesaler created Stock Outages is a failure to supply claim. Table 4.5 Wholesaler Created Stock Outage provides for response time goals and at what point a MMCAP Participating Facility could pursue a failure to supply claim, based on an opt-in election.

2. Temporary Out of Stock/Short-term Manufacturer Backorder.

Upon request, the Wholesaler's customer service department will use commercially reasonable efforts to find inventory in other distribution centers when an MMCAP Participating Facility calls about a Product that is temporarily out of stock (Stock Outage not due to Wholesaler's inventory management) or short-term backorder situations. Wholesaler will have three (3) business days to have the Product brought into stock at no charge to the MMCAP Participating Facility, barring any manufacturer production issues. It is acknowledged that applicable Pedigree requirements may limit the Wholesaler's ability to provide alternate service for temporarily out of stock and other product shortages.

MMCAP Participating Facilities can place Products on backorder by calling customer service or by using any electronic solutions (eMail, ordering systems) available through the Wholesaler. Placing a Product on backorder enables the MMCAP Participating Facility to receive the Product upon availability without placing a reorder if MMCAP Participating Facility requests this functionality. Alternatively, if a MMCAP Participating Facility uses Wholesaler's ordering system, MMCAP Participating Facility will receive notification when a backordered item becomes available, and can place the order for the quantity desired based on notification. Additionally, for recalled Products, the Wholesaler will be required to allow the MMCAP Participating Facility to re-order at the time of the recall.

E. Manufacturer Backorders.

Given the necessity to disseminate Product unavailability as quickly as possible, like in the instances of Manufacturer Backorders (MBOs), the Wholesaler's online order entry system will be required to provide real-time inventory status. The Wholesaler's order entry system will either provide notification prior to order of all MBOs or have identifiers on the inventory identifying why Product is unavailable (manufacturer backorder, temporary out-of-stock situation, discontinued product, etc.).

The Wholesaler will also list all MBOs on its website and the MMCAP Participating Facilities can call customer service to make inquiries. Notifications of MBOs will be provided by the Wholesaler either through the Wholesaler's website or Wholesaler generated push e-mail to MMCAP Participating Facilities. Backorder notices will contain an expected date of resolution as well as the reason for the backorder, if available. (e.g., raw material shortage). Wholesaler's website and/or push e-mails will also list recalled Products, discontinued Products, and Products on allocation.

The Wholesaler is required to adhere to the policy of "kill or fill" on all orders at order placement, unless the MMCAP Participating Facility has approved the receipt of a backorder and is set up to receive backorders.

F. Service Level Calculations.

Raw and Adjusted Fill Rates will be calculated on a monthly basis for each MMCAP Participating Facility's account(s) (including 340B accounts) serviced by the Wholesaler. Raw and Adjusted Fill Rates will also be calculated for MMCAP as a group as well as by each MMCAP Participating Facility, and if applicable by each distribution center servicing MMCAP Participating Facilities. Wholesaler is required to submit a Raw and Adjusted Fill Rate Report using the calculations defined below (Service Level Definitions) for each MMCAP Participating Facility, and by all MMCAP Members as a group to MMCAP, and if applicable by each distribution center servicing MMCAP Participating Facilities on a monthly and a quarterly basis. See Reporting Section for more information regarding this report.

Service Levels will be defined as follows:

- a. Raw Fill Rate will be calculated by dividing the number of units delivered by the number of units ordered.

$$\text{Raw Fill Rate} = \frac{\text{Number of Units Delivered}}{\text{Number of Units Ordered}}$$

Orders for Products that are not filled as a result of Wholesaler being out of stock of such Products will be considered as a line item for Product ordered in this calculation regardless of the reason for Wholesaler being out of stock.

- b. Adjusted Fill Rate will be calculated by dividing the number of units delivered by the number of units ordered minus the number of Manufacturer Backorder (MBO) units.

$$\text{Adjusted Fill Rate} = \frac{\text{Number of Units Delivered}}{\text{Number of Units Ordered} - \text{MBO Units}}$$

MBO Units will include:

1. Orders for Products made but not shipped because of industry wide shortages or other issues beyond the control of Wholesaler as demonstrated by Wholesaler to the reasonable satisfaction of the MMCAP Managing Director, lead pharmacist, and lead financial representative (e.g., Manufacturer Unable to Supply, Manufacturer Allocations, Manufacturer Backorders, Manufacturer Recalls, and Manufacturer Discontinued).
2. Purchases of Products which exceed 150% of the previous months activity
3. Products ordered which are filled and delivered within 24 hours of the original order
4. Partial shipments if 75% or more of the order can be completely filled within 48 hours
5. Unavailable Products repeatedly ordered within 72 hours of the original order
6. Special orders requiring shipment from the manufacturer
7. Non-stock Products that are not under contract with MMCAP
8. Contract rolls/awards where notifications from the MMCAP are received with less than 4 weeks' notice prior to transition of addition (e.g., bid year transition). Wholesaler may only include Products in MBO Units for 30 calendar days after notification.

Non-Contract OTC Products will not be included in the Adjusted Fill Rate.

The Wholesaler will be held accountable to an Adjusted Fill Rate for pharmaceutical Products of 98.5% based on the specified calculation and MBO units inclusions, for each MMCAP Participating Facility account. Pharmaceutical Products include but are not limited to: MMCAP Contract and Non-Contract prescription drug Products, MMCAP Contract OTC Products, IV solutions, contrast media, nutritionals, and anesthesia gases.

In the event Wholesaler's Adjusted Fill Rate falls below 98.5% for any month, the Wholesaler will be assessed the fee outlined below on all MMCAP Contract Products and Non-Contract Products purchased during that month in which the service level falls. Wholesaler will credit the amount back to the MMCAP Participating Facility by the last day of the first month of the next fiscal quarter (e.g., payment for default in January will be due on April 30). Failure to meet the Adjusted Fill Rate will not itself constitute a contract breach, as long as the Wholesaler is current in crediting of such amounts. Failure to meet Adjusted Fill Rates for any MMCAP Participating Facility will be officially recorded as part of the Wholesaler's contract performance, which is available for public review and may be used as past performance in any future MMCAP awards.

98.5 and above	0 basis points
97.51% to 98.49%	5 basis points (0.05%) of all MMCAP Contract and Non-Contract pharmaceutical Products purchased during such month.
97.1% to 97.5%	6 basis points (0.06%) of all MMCAP Contract and Non-Contract pharmaceutical Products purchased during such month.
97 % to 95%	10 basis points (0.10%) of all MMCAP Contract and Non-Contract pharmaceutical Products purchased during such month.
Less than 95%	25 basis points (0.25%) of all MMCAP Contract and Non-Contract pharmaceutical Products purchased during such month.

Service level requirements for MMCAP Participating Facilities will begin 30 calendar days following the effective date of the contract award. The service level for MMCAP Participating Facilities added to the Contract after the effective date will begin 30 calendar days from the time Wholesaler receives usage data.

MMCAP retains the right to investigate the backorder situation to determine the cause and responsibility of the backorder and to assist the Wholesaler and the MMCAP Participating Facilities during the MBO period.

Service level requirements for MMCAP Participating Facilities will begin thirty (30) calendar days following the implementation of each Participating Facility.

G. Shift Demands.

The Wholesaler will perform weekly maintenance in the Wholesaler's procurement system, shifting demands for additions and deletions where applicable. The Wholesaler will use GCN (Generic Code Number, specific for active ingredient, route, dosage form and strength), rather than NDC to aid in shift demand stocking decisions.

1. Brand to Generic Shift.

When a branded pharmaceutical Product patent release approaches, the Wholesaler will utilize the following process to ensure MMCAP Contract Products are expedited for the newly awarded generic.

- a. Ten (10) business days prior to patent expiration:
 - The Wholesaler is to supply MMCAP with a sales report capturing three (3) months of purchase history on the branded pharmaceutical Product, and a reminder sent that the Wholesaler plans to shift demand from the branded pharmaceutical Product to the awarded generic Product.
 - MMCAP will notify the Wholesaler of the awarded generic Product at the same time MMCAP notifies the awarded generic Product manufacturer.
 - Wholesaler is to provide MMCAP with a summary of the shift demand that occurred per distribution center.
 - Upon manufacturer launch and/or availability, Wholesaler is to have demands shifted and will expedite the new MMCAP generic contract Product into applicable distribution centers.

- b. A shift demand will occur for all Product presentations for which there was a brand Product available. For example, if the brand Product was available in 100-count bottles, 500-count bottles and unit dose packaging (UD100ea x 1), Wholesaler will shift demand generically for all three presentations, if available.
- c. Shift demands are to be converted even if bottle or package size varies. For example, if the brand Product was available in 60 count bottles but the generic Product is available in 100 count bottles, demand will be shifted to the 100 count bottles.
- d. Shift demands are not take place on additional bottle sizes or unit dose packaging that was not previously available unless the Wholesaler is directed by MMCAP to do so. MMCAP will notify the Wholesaler of expected shift demands through its weekly contract update process.

2. Generic to Generic Shift.

The Wholesaler will process shift demands for multi-source generic Products added to contract upon notification of an award from MMCAP. The Wholesaler will be allowed seven (7) business days from the time of MMCAP notification or until the product effective date, whichever is later, to ensure the new generic Product is loaded, viewable, and stocked at each distribution center where there is MMCAP Contract and/or non-contract usage for equivalent generic Products. This time line assumes the Wholesaler has a contractual relationship with the manufacturer. This time line also assumes that the manufacturer has the Contract Product ready to ship to the Wholesaler on the effective date specified. Wholesaler will provide MMCAP with a summary of the shift demand that occurred per distribution center.

The Wholesaler will provide MMCAP with a summary of the shift demand that occurs per distribution center, as well as providing a weekly price change report to MMCAP to assist in monitoring price reductions for multi-source generics. The Wholesaler will be expected to do shift demands for price decreases upon MMCAP request.

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Table 4.5 Wholesaler Created Stock Outage

Wholesaler created “Stock Outages”	Goal to have stock available to ship to an MMCAP Member	Criteria for when Failure to Supply (FTS)* Applies
Current Contract Products		
<p>MMCAP Contract Product not in stock in Distribution Center when the MMCAP Member attempts to order and subsequent request to stock is made to Wholesaler (assumes Contract Product is not MBO or on Manufacturer Allocation, and is not considered a MBO Unit, as defined in Section 4.5 Inventory Management, F. Service Level Calculation).</p>	<ul style="list-style-type: none"> • Goal: 5 business days. 	<ul style="list-style-type: none"> • FTS applies when Wholesaler has exceeded ten (10) business days for Rx and fifteen (15) business days for Consumer Health/OTC products for MMCAP Products currently meeting 3 units per month of usage at the distribution center. • FTS applies when Wholesaler has exceeded fifteen (15) business days for MMCAP Contract Products that are not stocked due to demand being below required minimum utilization levels.
Newly Added Contract Products		
<p>New Contract Product– relationship with Mfg/Sup already established.</p> <p>Assumes manufacturer has product available to ship to the Wholesaler, as of the specified effective date.</p>	<ul style="list-style-type: none"> • Goal: 10 Business Days. 	<ul style="list-style-type: none"> • FTS applies when Wholesaler has exceeded fifteen (15) business days from the time the Wholesaler receives notification that the Product has been added to the MMCAP Contract.
<p>New Contract Product – relationship with Mfg/Sup needs to be established.</p> <p>Assumes manufacturer has product available to ship to the Wholesaler, as of the specified effective date.</p>	<ul style="list-style-type: none"> • Goal: Not to exceed ninety (90) calendar days from the time the Wholesaler receives notification that the Product has been added to the MMCAP Contract. 	<p>Due to the variability in the timing of establishing a new manufacturer/supplier relationship, an MMCAP Member will not have access to a Failure to Supply remedy, unless Wholesaler fails to inform MMCAP, in writing, of difficulties with the specific manufacturer/supplier.</p>
Shift Demand		
<p>Shift demand of GCN equivalent(s) when a lower priced product comes on as a new Contract Product</p> <p>Assumes manufacturer has product available to ship to the Wholesaler, as of the specified effective date.</p>	<ul style="list-style-type: none"> • Goal: Ten (10) business days. 	<ul style="list-style-type: none"> • FTS applies when Wholesaler has exceeded fifteen (15) business days MMCAP provides notification to the Wholesaler or the new Contract Product effective date, whichever is later, to ensure the new generic Product is loaded, viewable, and stocked at each distribution center where there is MMCAP Contract and/or Non-Contract usage for GCN equivalents.

Table 4.5 E: Wholesaler Created Stock Outage (cont.)

Wholesaler created “Stock Outages”	Goal to have stock available to ship to an MMCAP Member	Criteria for when Failure to Supply (FTS)* Applies
Shift Demand		
<p>When a dual/multiple award Contract Product is discontinued, demand is to be shifted to a less active, GCN equivalent, alternative Contract Product. This demand shift and stocking is required as not to disrupt access to an alternative Contract Product.</p> <p>Assumes manufacturer has product available to ship to the Wholesaler, as of the specified effective date.</p>	<p>Goal: Seven (7) business days.</p>	<ul style="list-style-type: none"> • FTS applies when Wholesaler has exceeded ten (10) business days for Rx and fifteen (15) business days for Consumer Health/OTC from when MMCAP provides notification to the Wholesaler of Contract Product being discontinued, to ensure the less active, alternative Contract generic Product is loaded, viewable, and stocked at each distribution center, for MMCAP Products currently meeting 3 units of usage at the distribution center. • FTS applies when Wholesaler has exceeded fifteen (15) business days for MMCAP Contract Products that are not stocked due to demand being below required minimum utilization levels.
<p>* FTS = Failure to Supply, where MMCAP Participating Facility is provided a credit of the difference between the lower cost Contract Product not available and the next highest priced product (either Contract or Non-Contract) that is purchased from Wholesaler as a result of the Wholesaler exceeding the specified business days in stocking the Contract Product. For example, if the alternate equivalent generic product choices available were at \$5, \$7, and \$10 respectively, the next highest priced product would be the product priced at \$5, assuming the \$5 priced product is in stock. Wholesaler will not be responsible to pay FTS claims for MMCAP Contracted products that are on supplier disruption (i.e., manufacturer backorder, manufacturer allocation, etc.) or products in which the supplier cannot support the additional volume requested.</p> <p>This is an “opt-in” program whereby notification of an MMCAP Member State intent to opt-in must be provided within 30 days of the implementation of this Contract to Jaime Barouh at jbarouh@morrisdickson.com . If notification is not received, it will be assumed that the MMCAP Member State and its respective Participating Facilities have chosen to opt-out of this program offering and will receive an additional service fee discount as specified in Attachment C, Service Fee Discount Matrix as consideration to forgo FTS claims.</p> <p>Claims submitted that satisfy the process requirements of the Failure to Supply (FTS) MMCAP Contracted Products Process, will be cumulatively capped at 0.15% of year to date purchases of the MMCAP Participating Facility.</p>		

Failure to Supply (FTS) MMCAP Contracted Products Process:

1. If Wholesaler fails to maintain sufficient inventory of MMCAP Contract Products to meet the anticipated needs of MMCAP Members, an MMCAP Member may purchase the next highest priced alternate equivalent generic product from Wholesaler for the period in which Wholesaler is unable to provide the Product. FTS claim will not be valid unless the product purchased is the next highest priced alternate equivalent generic product. Wholesaler will be liable for any excess cost over the MMCAP

- Contract Price for up to 90 calendar days from the date the Wholesaler is unable to supply the MMCAP Contract Product to an MMCAP Member.
2. Wholesaler will use the price of the MMCAP Contract Products and the invoice price of the next highest priced alternate generic product to determine the amount of reimbursement for failure to supply claims.
 3. An MMCAP Member will submit the following information to Wholesaler for each MMCAP Contract Product that reimbursement is expected:
 - MMCAP Member Name, Address, City, State, Zip
 - MMCAP Member DEA or HIN
 - MMCAP Member point of contact for reimbursement (including telephone number and e-mail address)
 - Product description
 - Generic Product price
 - MMCAP Member's purchase price
 - Screen shot of "Quantity on Hand" for the original target item, at the time order was placed for the alternate NDC, including time stamp up to two hours prior to the order placed for alternate NDC
 - Alternate NDC
 - Alternate NDC manufacturer
 - Alternate NDC purchase price
 - Alternate NDC quantity purchased
 - Alternate NDC date purchased
 - Amount due
 - Reason (e.g., brief description, proof of failed order)
 - A copy of the invoice showing the purchase of an equivalent generic product. Wholesaler must pay claims directly to the MMCAP Member via credit memo within 30 days of receipt of a claim.
 4. Wholesaler must pay claims directly to the MMCAP Member via credit memo within 30 days of receipt of a claim.
 5. Wholesaler will be responsible for payment of Failure to Supply claims for up to 90 calendar days from the date the Wholesaler is first unable to supply the Product to an MMCAP Member. Credits due to an MMCAP Member based on excess product procurement costs caused by the Wholesaler's stocking failure will be routed from the Wholesaler back to the MMCAP member in the form of an account credit.
 6. Wholesaler's address for FTS reimbursement:
Electronic filing address: jbarouh@morrisdickson.com .

Wholesaler will provide training to MMCAP Members using Wholesaler's Generic Drug Program to include:

1. Ordering training to all MMCAP Members desiring training, to include ordering of non-stocked MMCAP Contract Products to be stocked as inventory in Wholesaler's distribution center and available for prompt delivery.
2. Ranking for both MMCAP and Wholesaler's Generic Drug Program contracts by contract and by price.
3. Filtering and sorting products to find the lowest priced item by purchased size or unit of measure.

In the event MMCAP chooses to process Failure to Supply claims on behalf of MMCAP Members, the Wholesaler is to receive 30 days' advance written notice. Wholesaler agrees to accept electronic claims form MMCAP, and/or MMCAP Members. Electronic claims will identify the specific Contract Products

for which alternative products were purchased and the amount of reimbursement claimed on behalf of each MMCAP Member for the additional cost incurred in purchasing the alternative products. Reimbursement amounts will be calculated by subtracting the MMCAP Product invoice amount from the purchase invoice amount, excluding all other fees. Wholesaler must pay such claims in the form of a credit within 30 days of the receipt of a claim described above. If the Wholesaler does not pay such claim within such thirty (30) day period, MMCAP will have the right to charge, and the Wholesaler agrees to pay, a late fee equal to the statutory maximum, defined in Minn. Stat. § 16D.13, as the allowable percentage per month of the amount of any unpaid claim.

4.6 MANAGEMENT of MMCAP CONTRACT PRODUCTS

A. Price Loading and Pricing Accuracy.

The Wholesaler is responsible for monitoring MMCAP's Contract Product pricing updates, which will be sent, at a minimum, on a weekly basis. The Wholesaler is to obtain product/pricing updates and load them, making them viewable within its ordering system, including all data lines from MMCAP's Contract File Update notifications, within five (5) business days from the date of receipt or by the MMCAP Contract File Update effective date, whichever is later. If the Wholesaler requires manufacturer verification in order to load an MMCAP Contract Product and the MMCAP-contracted manufacturer has not responded or provides data that is inconsistent with the MMCAP Contract File Updates, the Wholesaler will promptly notify MMCAP in writing. This notification is to occur no later than two (2) business days, after the five (5) business days allowance for the Wholesaler to go through their update load process.

This update process of within five (5) business days from the date of MMCAP notification also applies to items to be removed.

The Wholesaler will provide MMCAP the form of a weekly contract change report, any notifications received from an MMCAP-contracted manufacturer or supplier for a price or Product change on an MMCAP Contract Product (see Section 4.19 Reports). The Wholesaler will provide credits/rebills at no charge to correct pricing in the event that MMCAP and its contracted manufacturers disagree in regard to price and Product during the initial loading or pricing updates. To keep MMCAP Participating Facilities cognizant of price changes, price change reports are to be available via the Wholesaler's online ordering system.

Once the Wholesaler has received all requested account set-up information, as outlined in the New Accounts "onboard" process, and where appropriate, has received pricing confirmation from the manufacturer. The Wholesaler will have all MMCAP contract and individual contracts loaded prior to the MMCAP Participating Facility's first order. This contract load requirement includes all tiered contracts, if applicable to the specific MMCAP Participating Facility.

B. Product Additions/Deletions.

The Wholesaler is not allowed to add or remove, of its own volition, any MMCAP Contract Products from its database without providing prior written notification to MMCAP. Any notice received from a manufacturer or MMCAP Participating Facility of price changes for products on MMCAP contracts is to be forwarded to MMCAP for validation. Written notification can come in the form of the latest weekly Contract Change report, a report of all MMCAP contract activity, which lists all changes made within the past week to the MMCAP contract (see Section 4.19 Reports).

The Wholesaler will maintain an Adequate Supply for a Product added to the MMCAP contract due to a change in the NDC number, Product deletion, and replacement of a Product by the manufacturer, as well as in situations where the Wholesaler is notified that MMCAP has determined a need to switch its procurement selections. Immediately upon notification of the change, the Wholesaler will generate a usage

report for the old item, utilizing the report to decrement the old item(s) and increment the new item(s) as needed, to procure Product in a timely manner as to satisfy the needs of the MMCAP Participating Facilities.

The Wholesaler agrees to work with MMCAP in managing any product / price changes reflected during the course of the agreement. The Wholesaler will reconcile the MMCAP contract file and the manufacturer notifications received. When discrepancies are discovered, Wholesaler will provide notification to MMCAP. The Wholesaler will provide credit to the MMCAP Participating Facilities for the difference in cost between what the MMCAP Participating Facilities were invoiced and the actual MMCAP contract price when appropriate.

The Wholesaler will incorporate into their online ordering system, for all MMCAP Participating Facilities, a default of "all products", especially for MMCAP Contract Product. It is an imperative that MMCAP Contract Product be included, at all times, within a product query list, even if the current status of a particular product is temporarily out of stock or on MBO. It will not be acceptable for the default to be "Active", eliminating MMCAP Contract Product from purchase consideration due to a no stock available or non-stock status, regards of the reason for this status. Even if the MMCAP Contract Product is non-stocked due to insufficient utilization parameters, it is required to appear as an ordering option.

C. Convenience Contracts.

MMCAP has several convenience or access contracts in place with various manufacturers for Wholesale Acquisition Cost minus zero percent (WAC – 0%). These purchases are required to be included, and reported, as on-contract purchases. As on-contract purchases, the Wholesaler's Service Fees/Cost of Goods Discounts will apply. Additionally, upon request of an MMCAP Participating Facility and upon prior written notice to MMCAP, the Wholesaler will supply and distribute Products acquired under contracts individually negotiated with (e.g., pharmaceutical) manufacturers by an MMCAP Participating Facility. The Wholesaler's Service Fees/Cost of Goods Discounts will to apply to these purchases made from MMCAP Participating Facility individually negotiated contracts.

D. Product Expiration Dating.

Expiration dating for all MMCAP Contract Products and Non-Contract Products delivered under an awarded wholesaler/distributor contract must have a minimum shelf life of six (6) months expiration dating remaining upon delivery to the MMCAP Participating Facilities. Any shipments Product with expiration dating of less than six (6) months will require the prior approval of the MMCAP Participating Facility before the Wholesaler is to release and delivery the short-dated Product. If the Wholesaler distributes short dated Product to a MMCAP Participating Facility without prior approval, the Product may be returned to the Wholesaler, and the MMCAP Participating Facility will be credited for the return.

4.7 ORDERING SYSTEMS/EQUIPMENT

The Wholesaler's online order entry system is required to provide real-time inventory and current backorder status information. In addition, the Wholesaler will provide to each MMCAP Participating Facility an ordering method (s) that allows the facility to quickly and accurately order MMCAP Contract Products, within the technological capabilities of the MMCAP Participating Facility.

The Wholesaler is required to provide all new MMCAP Participating Facilities with a standard default ordering set-up to ensure MMCAP Contract compliance. This default set-up is expected to be submitted to MMCAP for approval prior to being deployed.

To support auditing of MMCAP-contracted Suppliers and pricing attached to MMCAP Contract Products, the Wholesaler is required to provide MMCAP access to a non-ordering account for each distribution center from which MMCAP Participating Facilities will receive service. These non-ordering accounts will

be real-time, applicable to current inventories, list MMCAP base contract pricing (meaning without service fee discounts) and at the highest (most expensive) pricing tier.

A. Ordering System/Devices.

At a minimum, the Wholesaler's ordering system(s) must provide the following functionalities:

- a. Clearly identify all MMCAP Contract Products and whether these Products are in stock
- b. Build and place electronic orders
- c. Review pending orders for correctness and contract compliance
- d. Provide online allocation of ordered amounts
- e. Receive Order Confirmation reports

The Wholesaler is required to extend flexibility all MMCAP Participating Facilities supporting the following ordering methods: Internet/web-based platform, mobile solutions, EDI phone orders via interactive voice response, direct call to customer service, handheld device ordering, and fax orders. The Wholesaler will provide one Telxon or equivalent at no charge for each requesting MMCAP Participating Facility (regardless of monthly purchase volume). Upon reasonable request, additional Telxons (or equivalent) are to be provided at no charge based on availability as reasonably determined by the Wholesaler. In addition, the Wholesaler must provide order method capability to MMCAP Participating Facilities during and after regular business hours and on weekends to order Product and check stock status.

If a MMCAP Participating Facility chooses to implement an EDI solution, the Wholesaler is to provide staff resources who will work with the MMCAP Participating Facility and the third party vendor to develop the appropriate interface to allow the trading of files. The Wholesaler is required to support all 850, 855, 856, 810, 894 and 880 EDI protocol documents for electronic invoicing as well as 820 notices for electronic remittances.

B. Training.

Training provided by the Wholesaler is to include, at a minimum:

- a. Proper use of order entry devices including computer and hand held units
- b. How to access and interpret the Wholesaler's inventory status
- c. Order placement process (Product inquiry, placement, order edit, print back confirmation, etc.)
- d. Any required ordering system maintenance
- e. Downloading price changes
- f. Performing file maintenance
- g. Requesting or printing bar code labels
- h. Download/Run/Print/Export contractually required reports
- i. Operation of Inventory Management program
- j. Identifying MMCAP Contract Products (e.g., contract ranking)
- k. Any other commercially available training in use of the equipment or ancillary items
- l. Contact information in case of questions regarding ordering
- m. Training guides or manuals and system operating manuals, accessible on line (including all updates), for all equipment and software furnished by the Wholesaler to each individual ordering facility
- n. Assigning of account login IDs and passwords
- o. Item Return Processing Training
- p. Technical support to interface hand held devices with each facility's PC/network infrastructure.

The Wholesaler will provide each facility with an instruction book/manual that outlines all of the functions on the online ordering tool. This instructional material can be provided via email. In addition, the Wholesaler will be required to work with MMCAP to develop other training processes as needed.

C. Inventory at an MMCAP Participating Facility.

The Wholesaler will provide support services to MMCAP Participating Facilities to perform onsite physical inventory. These support services inclusions are expected to be, but not necessarily limited to: training, software, reports, and handheld devices to perform an onsite inventory.

D. Ordering System(s), Back-up Service, Maintenance.

The Wholesaler is required to provide all software updates and system maintenance, recognizing that any Internet/Web-based systems will likely requires routine site maintenance. The Wholesaler will limit maintenance occurrences to weekends and MMCAP Participating Facilities are to be notified in advance of said maintenance, specifying a specific window of time for the maintenance to occur. Telxons, faxes, and calling the customer service department will serve as back-ups for the Wholesaler's ordering systems during these maintenance windows. If computer maintenance is required on Wholesaler provided equipment, the Wholesaler will replace or repair accordingly.

E. Label and Marking.

The Wholesaler is required to provide bar-coded shelf labels for each MMCAP Participating Facility. Each label is to have options to display information including: SKU numbers, minimum and maximum order quantities, suggested order quantities based on the MMCAP Participating Facility's purchase history, and MMCAP Contract Product status. MMCAP Participating Facilities are to have access to place orders for shelf labels through the same systems used to place orders for pharmaceuticals. Wholesaler is required to support the printing of shelf labels on-site at the MMCAP Participating Facility using Wholesaler's hand held ordering devices or, depending upon availability, bar-code printers. For MMCAP Participating Facilities that do not have printing capabilities, the shelf labels are to be printed at the Wholesaler's servicing distribution center and delivered to the facility the following delivery day.

4.8 ORDER PLACEMENT**A. Ordering Methods**

The Wholesaler is required to provide to each MMCAP Participating Facility an ordering method that allows the facility to quickly and accurately order MMCAP contract products, within the technological capabilities of the MMCAP Participating Facility. At a minimum, the Wholesaler's ordering systems will provide the following functionalities:

- a. Clearly identify all MMCAP Contract Products and whether these products are in stock
- b. Build and place electronic orders
- c. Review pending orders for correctness and contract compliance
- d. Provide online allocation of ordered amounts
- e. Receive order confirmation report

The Wholesaler is required to ensure that all new MMCAP Participating Facilities start with a standard default ordering set-up to ensure MMCAP contract compliance. This default set-up will be approved by MMCAP prior to being deployed.

Wholesaler's ordering system(s) will display the following information:

- MMCAP Participating Facility's name
- Wholesaler assigned account number
- Product Name
- Wholesaler's Product Number
- Generic Name
- Product Description

- Strength
- Packaging
- Manufacturer
- Unit dose indicator
- Form (e.g., tablet, capsule, etc.)
- National Drug Code (NDC) for applicable Products
- Wholesale Acquisition Cost
- Average Wholesale Cost
- Orange Book Rating – Referred to as AB rating
- Universal Product Code (UPC), where applicable
- Product Control Schedule (e.g., CII)
- DEA number (where applicable)
- Type of contract – contract identification or code that identifies product as an MMCAP Contract Product, Non-Contract, 340B Drug Pricing Program contract, or alternate contract Product
- Contract price (specific to the pricing and contract eligibility of each MMCAP Participating Facility).
- Product denoted as available as a Drop Shipment
- Product inventory status (e.g., stocked, unavailable due to MBO, Wholesaler Out of Stock, or allocation situations)
- Real-time Product inventory quantity available (Product in stock minus those allocated to orders)
- Alternate Product search option
- Product inquiry search option

All MMCAP Contract Products and MMCAP Participating Facility individually negotiated contracts are required to be loaded in the prime or first position (with price being the ranking determinant between MMCAP Contract Products and individually negotiated contracts) and be visible in the Wholesaler's ordering system. The Wholesaler's ordering system will clearly identify MMCAP Contract Products and the Wholesaler will not redirect MMCAP Participating Facility to other available contracts except with the written request of the MMCAP Participating Facilities.

The Wholesaler's ordering screen will clearly identify special orders such as controlled substances (e.g., CIIIs), Drop Shipments, and Closed Distribution Products. Closed Distribution Products and Drop Shipment Products are to be denoted.

B. Automatic Substitution

The Wholesaler will only be permitted to use automatic substitution upon specific request by a MMCAP Participating Facility, with prior written notification provided by the Wholesaler to MMCAP. In such permitted instances where the Wholesaler uses an automatic substitution process, the MMCAP Participating Facility must be notified of the substitution and the substituted Product must be annotated as such on the MMCAP Participating Facility's Order Confirmation. Once such an agreement is entered into between the Wholesaler and the MMCAP Participating Facility, the Wholesaler will be required to maintain an Adequate Supply of the alternate Product. There will be no commitment to buy the alternate Product and any order consisting of alternate Products will still require the prior approval of the MMCAP Participating Facility. Automatic substitution by the Wholesaler without the MMCAP Participating Facility's prior approval is strictly prohibited, and subject to potential breach of contract remedies. Upon request, the Wholesaler will supply MMCAP with a list of facilities using automatic substitution.

C. Confirmation Printback/Order Confirmation.

The Wholesaler is to provide a Confirmation Printback or Order Confirmation generated from the Wholesaler's system and sent to the ordering MMCAP Participating Facility on all orders processed. For orders placed on Internet/web-based ordering systems, the Order Confirmation can be provided to the user electronically, and the MMCAP Participating Facility is to be given the option to elect to have the Order Confirmation print to a local printer. The Order Confirmation is not to include additional fees for Product distribution; those fees, if applicable, are to be shown as a separate line charge on the invoice.

D. Controlled Substances Ordering System.

The Wholesaler is required to supply a Controlled Substance Ordering System (CSOS) that will allow MMCAP Participating Facilities to submit secure, electronic orders for controlled substances. The required standard turnaround time for the hard copy version of DEA Form 222 may be allowed to be a window of 24 hours to 48 hours, dependent upon on location. If CSOS orders are received by the Wholesaler's established cutoff time at the distribution center, the CSOS orders are to be delivered the next day.

Controlled substances ordered on a hard copy version of DEA Form 222 are to be shipped upon the Wholesaler's receipt of the form or on the Next Scheduled Delivery Day. Wholesaler can hold a controlled substance order to be shipped with the next order if requested by the MMCAP Facility. Making separate deliveries will not generally result in a shipping charge, however, if a MMCAP Participating Facility is under a certain volume threshold and the control order takes them over their allocated number of deliveries for any given month, a delivery fee may result. The Wholesaler will not apply additional shipping charges for controlled substances when shipped separately from another order due to process delays caused by Wholesaler.

For controlled substance orders using electronic CSOS (electronic DEA Form 222), the standard turnaround time is 24 hours.

E. Technical Support for Ordering.

The Wholesaler is required to supply technical support for order services to MMCAP Participating Facilities. This support can be accommodated by the use of "live" support during established business hours and an established on call option to address urgent or critical issues.

Wholesaler's technical support staff will be available Monday - Friday 8:00 am - 6 pm Central. MMCAP Participating Facilities can contact technical support by calling (800) 388-3833. MMCAP Facilities can contact their account manager for any necessary after hours support.

F. 340B Drug Program

The Wholesaler is required to be an Authorized Distributor of the 340B Drug Pricing Program for the entire term of the contract. The Wholesaler is required to provide notice in writing to MMCAP in the event of a status change.

The Wholesaler is to provide ordering accounts as follows for each MMCAP Participating Facility:

- a. One (1) MMCAP Account
- b. Necessary number of 340B accounts to maintain compliance with HRSA requirements for shipment to the eligible 340B entity.
- c. WAC account(s) as necessary to satisfy needs in shared inventory (GPO / 340B) environments.

The Wholesaler is required to have sufficient subject matter expertise available to MMCAP Participating Facilities to support the complex intricacies of this program.

Service fee/cost of goods discounts are to be applied to 340B purchases, with 340B purchase volume to be included in the total purchasing volume for the state, as it relates to the service fee/cost of goods discounts volume matrix.

4.9 DELIVERY

All deliveries are required to be FOB Destination, freight prepaid and allowed, to the MMCAP Participating Facility's receiving dock or pharmacy, or in the instance repackaging services use, to the receiving dock of the authorized ship to. Fuel surcharges are not allowed. The Wholesaler is required to maintain appropriate temperatures and environmental conditions in accordance with suppliers' requirements for delivery of products to the MMCAP Participating Facilities.

A. Routine Delivery.

The Wholesaler will to provide free deliveries for all MMCAP Participating Facilities when orders meet free delivery thresholds. Regardless of facility location, the Wholesaler will not be allowed to charge additional fees so long as the orders meet delivery thresholds. All routine scheduled order shipments should be F.O.B. destination, freight prepaid, and the Wholesaler is not allowed to charge a fuel surcharge.

The Wholesaler's holiday schedules are required to be communicated to the MMCAP Participating Facilities and MMCAP on an ongoing basis throughout the term of the contract.

The Wholesaler is required to ensure that all legally required documentation for transport of specialized materials such as chemotherapeutic medications and hazardous materials is maintained. The Wholesaler is required to ship hazardous materials as specifically allowed by the appropriate government regulations and utilizing shipping methods as outlined in those government regulations.

Allowed Routine Deliveries:

Average Monthly Purchasing Volume	Number of Free (No-Charge) Deliveries per Week
\$0 - \$25,000	1 / week
\$25,001 and up	5 / week

a. A daily order and delivery schedule:

Orders placed Monday - Thursday will be delivered on Tuesday - Friday. Orders placed on Friday, Saturday or Sunday will be delivered on Monday. Refrigerated product ordered on Friday and delivered through Fed Ex /UPS will be delivered on Tuesday to ensure the integrity of the product. Holiday orders will be delivered on the next business day. Morris & Dickson commits to providing delivery service by 2:00 pm the next day.

b. The cut off time for each distribution facility's ability to provide next day delivery.

Order cut off times for the Shreveport Distribution Center will be 6:00 pm Central for MMCAP facilities in the central time zone and 5:00 pm Eastern for MMCAP facilities in the Eastern time zone. Order cut off times for accounts that receive Fed Ex / UPS deliveries will be 5:00 pm Central and 4:00 pm Eastern.

Unless explicitly identify, number of free deliveries per week will apply to all MMCAP Participating Facilities, regardless of location.

The Wholesaler reserves the right to seek the most cost effective method for delivery for non-drug shipments which cannot be handled through the standard order and delivery terms due to size / weight constraints. Proper notification will be provided to the MMCAP Participating Facility.

B. Drop Shipments.

The Wholesaler is to act as a conduit to expedite and simplify the ordering and payment of drop shipped products. Unless approved by the MMCAP Participating Facility, drop shipments directly from product suppliers for recurring orders are prohibited.

Products requiring Drop Shipment are required to be easily identifiable in the Wholesaler's ordering system. Wholesaler will place Drop Shipment requests with manufacturers or suppliers within one (1) business day of receiving the request from the MMCAP Participating Facility.

In the event that the Wholesaler is unable to fill an MMCAP Participating Facility's order for an MMCAP Contract Product that is regularly in stock, but is not in stock because of a Wholesaler created Stock Outage, the Wholesaler will have the Product drop shipped directly from the manufacturer if the order is of urgent nature to meet critical patient needs and upon facility request. The MMCAP Participating Facility will not be assessed a fee for this shipment.

Product regularly classified as drop shipped product shall be billed at supplier's invoiced price to distributor. In the event the supplier does not offer at least 1.0% discount purchase terms or supplier terms do not adequately meet Wholesaler's overall cost of service, M&D will assess a processing fee as specified in Attachment B. ***In all cases, MMCAP Participating Facilities reserve the right to purchase and pay directly through drop ship vendors.*** Any extra fees passed to Wholesaler by the drop-ship supplier, such as extra delivery expenses, will be forwarded to the MMCAP Participating Facility for payment.

C. Delivery for Special Products.

The Wholesaler is required to maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery to the MMCAP Participating Facilities. All refrigerated Products are to be shipped in returnable coolers with appropriate packaging to maintain the required temperature range. In addition, for Products requiring refrigeration, the Wholesaler is required to clearly mark the outer packaging as such. The Wholesaler is required to ensure the use temperature monitors if monitors are required by the manufacturer.

All Products are to be adequately packaged by Wholesaler. If an MMCAP Participating Facility refuses Product that has been inadequately packaged, any costs associated with the return of Product due to improper packaging or transport will be at the expense of the Wholesaler.

The Wholesaler is required to comply with all DEA requirements for controlled substances.

The Wholesaler is not allowed to distribute MMCAP Contract Products through associated specialty distributors without the prior written approval of MMCAP or without the manufacturer requiring the Wholesaler to do so. If the Wholesaler has a specialty distribution subsidiary under its corporate structure for which specialty distribution may be needed due to a limited distribution network, the Wholesaler will need to disclose this relationship.

A separate company has been created called M&D Specialty Distribution. Under M&D Specialty Distribution, the Wholesaler will be able to provide the market with access to certain specialty pharmaceuticals and select products not traditionally available through full line distribution. Upon approval from the manufacturers, MMCAP Participating Facilities will have access to specialty pharmaceuticals through their current ordering platform. A separate order acknowledgement will be

received by the MMCAP Participating Facility for items that fall under M&D Specialty Distribution. A separate invoice will be received by the MMCAP Participating Facility for items that fall under M&D Specialty Distribution. As a convenience, MMCAP Participating Facilities can provide payment for M&D Specialty Distribution product through Morris & Dickson or MMCAP Participating Facilities can provide payment through M&D Specialty Distribution.

MMCAP acknowledges that certain contract manufacturers have limited distribution networks and that a specialty distribution alternative may be required in distributing these manufacturers' products for MMCAP Participating Facilities. Product ordered as a drop ship due to the manufacturer's limited distribution network will be billed at supplier's invoiced price to the distributor. In the event the supplier does not offer at least 1.0% discount purchase terms or supplier terms do not adequately meet Wholesaler's overall cost of service, Wholesaler will assess a processing fee as specified in Attachment B. Additionally, any extra fees passed to Wholesaler by the specialty distributor, such as extra delivery expenses, will be forwarded to the MMCAP Participating Facility for payment.

If a manufacturer charges the Wholesaler for shipping due to an expedited request by an MMCAP Participating Facility for delivery of Special Products, the Wholesaler is required to line item these charges on the invoice sent to the MMCAP Participating Facility on a pass-through basis only. The Wholesaler is not allowed to charge a "cost plus" on shipping costs charged by the manufacturer.

D. Delivery of Bulky Items.

Bulky items are those products that may be exceptionally cumbersome to deliver. Examples of these products may include cases of nutritional products, IV fluids, etc. In the event that the MMCAP Participating Facility approves the Wholesaler's request to have bulky items drop shipped, the product manufacturer and drop-ship notification is to be annotated on the MMCAP Participating Facility's order confirmation. Wholesaler will pass through the incremental delivery expense. Any handling fees for non-MMCAP contract bulky items are to be reported as a separate line item on the MMCAP Participating Facilities' invoices.

Service fee discounts will apply to Contract Bulky Products.

E. Emergency Order, Placement, and Delivery

The Wholesaler is required to have a procedure for the placement of emergency orders during non-business hours and to provide each MMCAP Participating Facility with this information as part of the on-board process. An emergency order is defined as one necessary for immediate and specific patient care which falls outside the normal order and delivery parameters. OTC Products are not considered necessary for immediate and specific patient care and are not required to qualify for free emergency orders.

Average Monthly Purchasing Volume	Annual Number of Free (No-Charge) Emergency Order Deliveries
\$0 - \$25,000	12
\$25,001 and up	12

Any additional emergency orders beyond the twelve per year that are free will be assessed a fee as detailed in Attachment B, Discounts and Fees. Using air and ground options, Wholesaler will exhaust all resources in delivering emergency Product in the most timely and efficient methods. Air services may be used at the discretion of the Wholesaler based on the severity of the emergency situation. Wholesaler will make a good faith effort to make emergency deliveries within four (4) hours following receipt of the order.

Service fee/cost of goods discounts are required to be applied to emergency orders.

4.10 PEDIGREE

In the passage of the Drug Quality and Security Act (H.R. 3204) on November 27, 2013, Title II of the Act, establishes a national system for tracing pharmaceutical products through the supply chain and sets national licensing standards for wholesale distributors. This legislation preempts the current state pedigree and serialization laws, however, as the Drug Quality and Security Act transitions, the Federal pedigree requirements within the Prescription Drug Marketing Act (PDMA) are to remain in effect for the immediate future. Those state pedigree laws which are more restrictive than PDMA could continue to maintain their current requirements until Drug Quality and Security Act transitions.

The Wholesaler is required to comply with all aspects of Drug Quality and Security Act as it transitions, and during the transition, to continue to comply with PDMA, along with continued compliance with those state pedigree laws which are more restrictive than PDMA.

If any new transitions of the Drug Quality and Security Act which require change(s) to the current pharmaceutical distribution procedure(s), a minimum of 30 calendar days' notice of the change(s) will be provided so MMCAP Participating Facilities can prepare. Wholesaler agrees to provide next day service for those Products requiring a Pedigree.

If Wholesaler wishes to impose any fee arising from further clarification of the Act, the parties will engage in good faith negotiations to enter into an amendment to the Contract reflecting the amount of the fees to be imposed for providing Pedigrees and the MMCAP Participating Facilities that will be subject to such fees, all as provided in such notice.

As part of the quarterly executive business review with MMCAP, the Wholesaler will be required to provide updates on the Drug Quality and Security Act transition and how the Wholesaler is integrating compliance aspects into its work deliverables to MMCAP Participating Facilities and MMCAP.

4.11 CONTRACT COMPLIANCE

The Wholesaler is expected to identify ways to eliminate barriers that prevent MMCAP Participating Facilities from purchasing MMCAP Contract Products. As a partner with MMCAP, the Wholesaler is not to condone or encourage in any way the purchase substitution of a MMCAP Contract Product with that of a Non-Contract Product.

A. On-Contract Purchasing.

The Wholesaler is required to clearly identifying those MMCAP Contract Products in its order entry system, maintaining adequate Contract Product stock, and to provide inventory status for all products. On-demand contract compliance reporting is to be available for each MMCAP Participating Facility.

To ensure overall MMCAP Participating Facility contract compliance, the Wholesaler may be asked to provide, to the MMCAP State Contacts in each state served by the Wholesaler, a monthly report containing the following fields:

- a. MMCAP Participating Facility name
- b. Agency account numbers (MMCAP Participating Facility ID Number and Wholesaler account number)
- c. Contract volume (in dollars) by facility
- d. Not-on-contract volume (in dollars) by facility
- e. Total volume(in dollars) amounts by facility

- f. Number of line items shipped to the facility

Wholesaler is required to provide compliance reporting upon request.

B. Compliance Calculations.

The Wholesaler is required to report contract compliance by utilizing the calculations identified below:

Raw Contract Compliance:

MMCAP Contract Sales^a

Total Sales^b

- a. MMCAP Contract Sales: Products for which MMCAP has negotiated a contract
- b. Total Sales consist of MMCAP Contract Sales, Alternate Contract Sales, Wholesaler's Generic Drug Program, and non-contract sales.

Adjusted Contract Compliance:

MMCAP Contract Sales^a + Alternate Contract Sales^b

Total Sales^c

- a. MMCAP Contract Sales: Products for which MMCAP has negotiated a contract
- b. Alternate Contract Sales consist of products purchased under the 340B Program, Products purchased from contract individually negotiated by the MMCAP Participating Facilities, or Product purchased from the Wholesaler's Generic Drug Program.
- c. Total Sales consist of MMCAP Contract Sales, Alternate Contract Sales, and non-Contract Sales.
- d. In the event that a MMCAP Participating Facility has a 340B account, that portion of the MMCAP Participating Facility purchase volume will be assigned a separate account number and Contract Compliance is to be calculated in the same manner for that account.

C. Reporting Tools.

The Wholesaler is to provide online electronic access to all purchasing data relating to the products that are purchased by each MMCAP Participating Facility to MMCAP and MMCAP Participating Facilities. Electronic access should provide a system for reporting each individual MMCAP Participating Facility's purchases, as well as be capable of running reports on select groups of facilities. Users must be able to manipulate the data to build reports based on each MMCAP Participating Facility's individual needs/requirements directly through the system or through the ability to transfer data into spreadsheets in a Microsoft Office compatible format. Common pre-defined reports (e.g., 80/20 reports) must be available.

For reports that are rolled up, the Wholesaler is required to provide drill down capabilities as to allow the user to reach additional detail. Grouping of accounts for management oversight is required. Whether or not reporting tools are considered standard or advanced by the Wholesaler, all reporting tools are to be provided to MMCAP Participating Facilities, MMCAP State Contacts, and MMCAP at no additional charge or monthly subscription fee.

4.12 INVOICING

A. Order Invoice

For MMCAP Contract Products, MMCAP Participating Facilities are to be invoiced at the MMCAP Contract price, plus or minus the negotiated service fee/cost of goods discount, throughout the life of this contract. Non-contract branded and OTC items will be invoiced at WAC. Non-contract generics will be invoiced at selling price as determined by the Wholesaler at the time of purchase. Any non-contract product purchases are required to be invoiced at no more than WAC. The Wholesaler is required to submit an invoice with each order. Invoices are to be issued only for the amount of product delivered, not the amount ordered. Quantity ordered and quantity shipped must be based on the packaging associated with the NDC number.

At a minimum, the Wholesaler's invoice will contain the following fields:

- MMCAP Participating Facility Name
- Wholesaler-assigned account number for the MMCAP Participating Facility
- Invoice number
- Invoice line number
- MMCAP Participating Facility's purchase order number
- Invoice date
- Wholesaler's SKU item number
- NDC (11 digit)
- Controlled substance classification
- Product Name/Description
- Packaging as associated with NDC number
- Unit price
- Quantity ordered
- Quantity shipped
- Extension (unit price multiplied by the quantity shipped)
- Total invoice price
- Type of transaction (MMCAP contract purchase, other contract purchase (e.g., 340B, off-contract purchase))*
- Bill to address
- Ship to address
- Applicable omit codes (e.g., Manufacturer Backorder, wholesaler temporarily out, manufacturer discontinued, etc.)**

*Wholesaler's invoice note codes indicate the type of transaction and are as follows:

Code	Definition
Not available	Taxable
C = Contract Item G = Group I = Individual M = M&D	Contract
Promo % - Mfg Promotion Disc.	Special net
Promo % - Mfg Promotion Disc.	Special pricing

**Wholesaler's omit codes are:

Code	Definition
Mfg Backorder (If date is available, it will be listed).	Manufacturer Backorder
Qty "0"	Warehouse out
Mfg Backorder	Manufacturer out
Qty "0"	Not stocked
Mfg permanently discontinued.	Manufacturer discontinued
Permanently Discontinued.	Warehouse discontinued
On separate paper with invoices. Recall.	Drug recall
Backorder upon Receipt	New item/stock unavailable
N/A (not on invoice)	Restricted item
N/A (not on invoice)	Product allocation

B. Invoice Rounding

The Wholesaler is required to have invoicing procedures that follow standard rounding methodology. This standard invoicing methodology will round down if the third digit after the decimal is 4 or less and round up if the third digit after the decimal is 5 or more. Rounding occurs after the line item is multiplied by the quantity.

C. Credits

The Wholesaler is required to have the capacity to process credits daily, as manufacturer notifications are received, and are to issue credit due to MMCAP Participating Facilities daily. Should there be an invoice dispute, it is expected that any credit due to the MMCAP Participating Facility be issued within three business days after the resolution of the dispute.

When credits are issued, the Wholesaler is required to issue credits to MMCAP Participating Facilities that have no expiration date, and are to be issued for all dollar amounts, not limited to a minimum dollar value.

In the event of a facility closure or other event where an MMCAP Participating Facility will not be making another purchase through the Wholesaler, the MMCAP Participating Facility is to be given the option to cash out its unused credits. To the extent permitted by law, the MMCAP Participating Facility, at its direction, can have unused credits transferred from one account to another account.

The Wholesaler is to provide access to reporting, showing all credits that were paid and any existing credits still available, and online options to print out a hard copy of the credit memos from the Wholesaler's ordering system.

Each credit memo issued is to be clearly identified as a credit memo, and at a minimum, is required to contain the following information:

- a. Original purchase order
- b. Original Wholesaler's invoice number
- c. Original order date
- d. Itemized listing of the product(s) affected
- e. Any rebill associated with the credit
- f. The reason (s) for the credit (e.g., manufacturer credit, merchandise return, etc.)
- g. Net credit amount available to the MMCAP Participating Facility

The Wholesaler will make best efforts to ensure that all necessary steps are taken so as credits become available close to the end of the MMCAP Participating Facility's Fiscal Year, those credits are available for use by the customer no later than five (5) days prior to the end of the fiscal year.

D. Rebills

The Wholesaler is required to have the capacity to process rebills daily, as manufacturer notifications are received, and are to issue rebills to MMCAP Participating Facilities daily. Should there be an invoice dispute, it is expected that any actionable rebill activity be processed and issued to the MMCAP Participating Facility within three business days after the resolution of the dispute.

Each rebill issued is to be clearly identified as a rebilled invoice, and at a minimum, is required to contain the following information:

- a. Original purchase order. This is available through the Wholesalers electronic ordering method. MMCAP Participating Facility can type the invoice number which will display the original invoice, including the original purchase order number. However, this is not available on the hard copy re-bill.
- b. Original Wholesaler invoice number
- c. Original order date. This is available through the Wholesalers electronic ordering method. MMCAP Participating Facility can type in the invoice number which will display the original invoice, including the original order date. However, this is not available on the hard copy re-bill.
- d. Itemized listing of the product(s) affected
- e. Any credit memo associated with the rebill
- f. The reason (s) for the rebill (e.g., manufacturer chargeback denial, pricing errors, etc.)
- g. Net amount due from the MMCAP Participating Facility

In the event of a pricing error which is caused by the Wholesaler and creates a rebill situation not favorable to the MMCAP Participating Facilities, the Wholesaler will actively pursue any available remedies with suppliers on behalf of MMCAP Participating Facilities' interests and will seek exceptions to supplier imposed limitations if necessary. In the event that the rebill positively impacts the MMCAP Participating Facilities' interests, the Wholesaler will automatically generate credit / rebills back to the earliest effective date, not to exceed 90 days in 340B accounts.

E. Price Audits and Corrections

When a MMCAP Participating Facility or MMCAP discovers an error in pricing, as validated by the manufacturer, for an MMCAP Contract Product that favors one MMCAP Participating Facility, the Wholesaler is required to research the discovered error to determine impact on all MMCAP Participating Facilities. The Wholesaler will then facilitate the process to issue credits/rebills to all affected MMCAP Participating Facilities for the time period from which the error began to the date it is corrected.

Throughout the term of this Contract, the Wholesaler is required to conduct weekly contract pricing audits matching pricing information provided by MMCAP against contract pricing provided by manufacturers. If the Wholesaler discovers discrepancies, the Wholesaler is to notify manufacturer and MMCAP of the discrepancy in order to reach resolution. Upon resolution, the Wholesaler will correct the errors, will create a sales history report, and enter credit(s)/rebill(s) for each MMCAP Participating Facility connected to the contracts within five (5) business days.

MMCAP and the MMCAP Participating Facilities acknowledge that if a pricing discrepancy is the fault of the applicable manufacturer, such manufacturer may limit recovery arising from such pricing discrepancy and Manufacturer will not have any responsibility for such discrepancy or any such limitation.

F. Chargeback Denials

The Wholesaler is required to provide prompt notification to MMCAP when it receives legitimate chargeback denials from manufacturers that have denied MMCAP Participating Facilities contract pricing. Preferred notification is a communication to MMCAP via an automated report and the Wholesaler is to provide this information within three (3) business days of validation with the supplier. Notification via email should be provided to mmcap.contracts@state.mn.us.

G. Invoice Disputes

Subject to state law, the MMCAP Participating Facility will notify Wholesaler of any known dispute with an invoice within 30 calendar days of receipt of the invoice, but in no event shall the invoice dispute be communicated after the invoice is due, otherwise the invoice will not be considered disputed.

The MMCAP Participating Facility shall pay all portions of a disputed invoice, subject to resolution of that dispute. If upon resolution, the disputed invoice was found to be in error, Wholesaler shall credit the original amount of the invoice and rebill the MMCAP Participating Facility within five (5) business days.

Where the above is prohibited by an MMCAP Member State's applicable law(s), the Wholesaler shall comply with requirements of that state's law(s) related to disputed invoices. If state law prohibits the complete payment of a disputed invoice, any outstanding amount will not be held against the MMCAP Participating Facility when calculating service fee discounts.

Wholesaler and MMCAP Participating Facility will make a good faith effort to resolve known disputes related to contract pricing within 30 calendar days of notice of the dispute. This clause will in no way be deemed a limitation on the Parties as it relates to the future auditing and/or correction of invoices.

Unless otherwise prohibited by state law, where an MMCAP Participating Facility disputed invoice is found to be incorrect, the MMCAP Participating Facility may be liable for interest and penalties, as set forth in Section 4.13 G. Late Payment.

H. 810 EDI Invoices and Auditing

Wholesaler must provide 810 EDI invoices to MMCAP, MMCAP Participating Facilities, and any other entity designated by MMCAP with exception to 340B and WAC / Non-GPO pricing. Wholesaler is limited in its ability to provide 340B and WAC / Non-GPO pricing except when authorized by the 340B-eligible member. Wholesaler will work with MMCAP's current contracted invoice auditing vendor. In the event that MMCAP enters into a contract with an invoice auditing vendor that is not the current contracted invoice auditing vendor, MMCAP agrees to good faith negotiations in regard to this Section. The auditing vendor or MMCAP agrees to validate invoice auditing claims with supplier prior to submission to Wholesaler by the contracted invoice auditing vendor and such validation will contain member specific eligibility. Likewise, Wholesaler will research product pricing that appears to have a discrepancy and will confirm that pricing and information with the manufacturer. Wholesaler will review and make a reasonable

effort to resolve errors within ten (10) business days of notification from MMCAP-contracted invoice auditing vendor. Wholesaler will not charge MMCAP or the MMCAP Participating Facility for use of an invoice auditing service or for invoice dispute resolution. Wholesaler will issue credits/rebills within three (3) days of manufacturer verification.

I. Goods Returned to Wholesaler

The Wholesaler is required to maintain a return goods policy for accepting returns from MMCAP Participating Facilities in accordance with applicable laws, regulations, and normal business practices. Goods returned will be managed in accordance with Attachment D, Wholesaler's Returned Goods Policy.

J. Recalls

If any Product distributed by the Wholesaler is recalled or removed by the manufacturer or the Wholesaler itself, or if a recall is suggested or mandated by a regulatory or official Agency, the Wholesaler is required send notice to each ship-to location for which the Wholesaler has a sales history within the affected recall timeframe. Recall notices are to be sent with the MMCAP Participating Facility's next delivery or via mail, telephone, or email communication if the MMCAP Participating Facility does not have a delivery the day the recall notice is released.

Depending on the class of the recall, Wholesaler will, after initiating a recall, send to any MMCAP Participating Facility that did not provide the Wholesaler verification they received the recall notice, a second notice three weeks and/or six weeks after recall initiation.

In the rare instance that a manufacturer requires Wholesaler to identify specific products that were sold to specific MMCAP Participating Facilities, Wholesaler is required to send recall notices to inactive MMCAP Participating Facilities that have ordered the recalled Product up to 12 months after the last purchase.

4.13 PURCHASE ORDERS and PAYMENT

A. Purchase Orders

As a condition for purchasing under this Contract, purchasers must be MMCAP Participating Facilities in good standing with MMCAP. Then, MMCAP Participating Facilities may purchase goods and services by submitting Purchase Orders. MMCAP Participating Facilities may use their own forms for Purchase Orders. To the extent that the terms of any form differ from the terms of this Contract, the terms of this Contract supersede such conflicting or contrary terms.

B. Payments by MMCAP Participating Facility

Each MMCAP Participating Facility will be responsible for payment of goods and services provided to them by the Wholesaler. MMCAP does not have any liability for an unpaid invoice of any MMCAP Participating Facility. The Wholesaler is required to accept purchase orders and invoice the MMCAP Participating Facility for all products shipped and services provided. Payment modalities that the Wholesaler is minimally required to facilitate are checks and Automated Clearing House/Electronic Funds Transfer (ACH/EFT) transactions. At time of new account setup, the MMCAP Participating Facility will initiate ACH/EFT process with its bank.

Service fee discounts and payment term definitions are listed on Attachment C, Service Fee Discount Matrix.

C. Verification of Authorized Purchasers

Upon request of MMCAP, Wholesaler must verify that it provides goods and services under this Contract only to MMCAP Participating Facilities.

D. Funds available and authorized/non-appropriation

Wholesaler will not be compensated for goods delivered or services performed under a Purchase Order by any entity other than the MMCAP Participating Facility that issued the Purchase Order. By submitting a Purchase Order the MMCAP Participating Facility represents it has sufficient funds currently available and authorized for expenditure to finance the costs of the Purchase Order.

E. Termination of Individual Purchase Orders

MMCAP Participating Facilities may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Wholesaler, or at such later date as the MMCAP Participating Facility may establish in such notice, upon the occurrence of any of the following events:

- a. The MMCAP Participating Facility fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Purchase Order;
- b. Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or the MMCAP Participating Facility is prohibited from paying for such goods from the planned funding source; or
- c. Wholesaler commits any material breach of this Contract or a Purchase Order.

Upon receipt of written notice of termination, Wholesaler will stop performance under the Purchase Order as directed by the MMCAP Participating Facility.

Termination of a standing Purchase Order does not extinguish or prejudice the MMCAP Participating Facility's right to enforce such Purchase Order with respect to Wholesaler's breach of any warranty or any defect in or default of Wholesaler's performance under such Purchase Order that has not been cured, including any right of the MMCAP Participating Facility to indemnification by Wholesaler or enforcement of a warranty. If a standing Purchase Order is terminated, the MMCAP Participating Facility must pay Wholesaler in accordance with the terms of this Contract for goods delivered and accepted by the MMCAP Participating Facility.

F. Jurisdiction and Venue

Upon completion of the Dispute Resolution process outlined in Article 31 of this Contract, and solely with the prior written consent of MMCAP and the State of Minnesota Attorney General's Office, the MMCAP Member may bring a claim, action, suit or proceeding against Wholesaler. The MMCAP Member's request to MMCAP to bring the claim, action, suit, or proceeding must state the initiating party's desired jurisdiction, venue and governing law.

Upon completion of the Dispute Resolution process outlined in Article 31 of this Contract, the Wholesaler may bring a claim, action, suit or proceeding against MMCAP Member, in Wholesaler's sole discretion.

G. Late Payment

This clause will not apply to an MMCAP Participating Facility when prohibited by that MMCAP Participating Facility's individual state law.

The Wholesaler is required to comply with specific state law governing the MMCAP Participating Facility relative to any fees and/or penalties associated with late payments. However, if a MMCAP Participating Facility fails to comply with the agreed upon payment terms:

- a. Wholesaler can change the service fee discount extended to the MMCAP Participating Facility prospectively, to reflect that MMCAP Participating Facility's actual payment practice;
- b. or, where there is no law prohibiting late payment fees and/or penalties, the Wholesaler can assess a 1.5% late payment fee or the maximum rate permitted by law on the outstanding balance until paid.

The late charge will be assessed on invoices paid past their due date and past due invoices open at the time of monthly assessment of late charges.

- c. Wholesaler will use commercially reasonable efforts to work with the MMCAP Member in the event payments are not timely made. Wholesaler may, at its election, either reduce payment terms to a shorter number of days or place an MMCAP Member on C.O.D status under the following circumstances: (i) if Wholesaler has not received payment of outstanding invoices in full as set forth above, or (ii) there is a material adverse change in the financial condition of the MMCAP Member. In either instance, the situation shall be immediately elevated to an executive team from both the MMCAP Member and Wholesaler in an effort to rectify the situation and restore the MMCAP Member's then current payment terms. In the event of such elevation, if the executives are unable to reach a mutually acceptable resolution within a period of twenty (20) calendar days and any undisputed amounts remain unpaid for more than ten (10) calendar days thereafter, Wholesaler reserves the right to refuse orders from the MMCAP Member.

4.14 ADMINISTRATIVE FEE

In consideration for the management services of the wholesaler contract as provided by MMCAP, the Wholesaler will pay a monthly distribution services administrative fee on the aggregate MMCAP Participating Facilities' purchases (less any credits and returns) made through Wholesaler, as specified in Attachment B. Administrative fees will not be paid on Drop Ship purchases and purchases made under designated 340B accounts and WAC / Non - GPO accounts. The Wholesaler will submit a check payable to "State of Minnesota, MMCAP Program" for all MMCAP Participating Facilities' purchases covered under this Contract. Such amount will be payable within fifteen (15) days of the close of the month in which the fees were earned, but no later than 30 calendar days after the end of the month. The Wholesaler will not pay member state specific administrative or procurement fees that are not considered "pass through". "Pass Through" fees are included in state specific terms and conditions requiring the Wholesaler to increase Service Fees, and then passing them through in the form of a check to the designated State entity.

MMCAP reserves the right to collect interest on payments 30 calendar days past due at a rate of 18% annually, consistent with Minn. Stat. § 16A.124.

Together with such payments, the Wholesaler will provide a monthly detailed report in a mutually acceptable format substantiating the payment. All required administrative fee data files must be sent to: mn.mmcap@state.mn.us at the end of each month, but no later than 30 days after the end of the month. Failure to comply with this provision may constitute breach of this Contract.

4.15 MMCAP SERVICE CONTRACTS

A. Contract Price Auditing

The Wholesaler will not charge any fees, to either MMCAP or the MMCAP Participating Facilities, for the transmissions made to MMCAP's contracted invoice auditing vendor.

B. Reverse Distribution Processor

Wholesaler is required to have an agreement throughout the term of the contract period with the MMCAP-contracted returned goods processor(s) to allow all MMCAP Participating Facilities to fully participate in the services offered by the MMCAP Returned Goods Contract. The Returned Goods Processor(s) is subject to change at any time.

The Wholesaler is not allowed to withhold or delay application of a credit from a returned goods processor to the MMCAP Participating Facility's account for any reason, including when the credit is from a manufacturer that is in arrears with the Wholesaler. In addition, the Wholesaler is required to apply the full credit to MMCAP Participating Facility's account, without subjecting the credit to a fee or withhold.

C. Repackaging Services.

Wholesaler is required to have an agreement throughout the term of the contract period with the MMCAP-contracted repackaging vendor(s) to allow all MMCAP Participating Facilities to fully participate in the services offered by the MMCAP Repackaging Services Contract. It is expected that the Wholesaler will have contracts with all MMCAP contracted repackaging vendor(s), and to note the Repackaging Services vendor(s) is subject to change at any time.

Process Steps:

- a. The MMCAP Participating Facility notifies the Wholesaler that they would like to utilize an MMCAP repackaging services contract.
- b. Once the Wholesaler is notified, the Wholesaler begins the set-up work with the identified repackaging vendor.
- c. The repackaging vendor will then work directly with the MMCAP Participating Facility to qualify their needs. Paperwork will be sent to the MMCAP Participating Facility and a list of the drugs that that are being requested to have repackaged should be provided (NDCs, quantities, repackaging format, etc.)
- d. Once the MMCAP Participating Facility has been qualified by the repackaging vendor and all documentation is completed, the MMCAP Participating Facility will then request a new ship-to/bill-to account be setup by the Wholesaler.
- e. The NDCs that are intended to be repackaged should be shared with the Wholesaler to ensure stocking adjustments have been made at the distribution center that would be servicing the repackaging vendor's facility on behalf of the MMCAP Participating Facility.
- f. The Wholesaler would set up the new account to have all of the MMCAP Participating Facility's standard contracts and pricing applied.
- g. The MMCAP Participating Facility will make the determination if invoicing for the repackaging services is to be through the Wholesaler or direct billed by the repackaging vendor.
- h. MMCAP Participating Facility places their first order through the new repackaging account once fully setup and order-ready.
- i. Repacking vendor receives MMCAP Participating Facility's order the next day from the Wholesaler and processes the repackaging order according to the MMCAP Participating Facility requirements.
- j. The repackaging vendor then ships the product directly to the MMCAP Participating Facility via UPS/FedEx.
- k. Invoicing is generated based on the determination made by the MMCAP Participating Facility.
- l. Wholesaler will pass through the cost of shipping to the MMCAP Participating Facility.

While the Wholesaler can require a repackaging vendor to pay a fee to the Wholesaler for services rendered, Wholesaler is not allowed to charge an additional fee to the MMCAP Participating Facility for utilizing this service. However if the MMCAP Participating Facility has exceeded the free delivery quota for the period of time applicable, the Wholesaler can charge a delivery fee in keeping with the delivery fee associated with exceeding the free delivery quota for the specified period of time.

Wholesaler will require an account set-up fee which will be billed upon initial accounts set up for MMCAP Participating Facility, as specified in Attachment B.

D. Influenza Vaccine/Medical Supplies.

Both influenza vaccine distribution and medical supplies distribution are independent, separate service offerings. It is required that reasonable efforts will be made by Wholesaler to direct MMCAP Participating Facilities to MMCAP for guidance on these service offerings. Unless Wholesaler is also awarded one or both of these other service offerings through a separate contract award processes, it is required that Wholesaler will not solicit MMCAP Participating Facilities for influenza vaccine distribution and medical supplies distribution service offerings.

4.16 OTHER VALUE-ADD SERVICES**A. Wholesaler's Generic Drug Program.**

Many MMCAP Participating Facilities have state procurement mandates requiring the purchase of the lowest cost product. Adherence to the requirement to stock MMCAP Contract Products is in place to support the procurement mandates of MMCAP Participating Facilities.

In addition to MMCAP Contract Products to support the procurement mandates of MMCAP Participating Facilities MMCAP expects the Wholesaler to provide a fluid warehousing approach whereby the Wholesaler will be permitted to load its best-priced tier Generic Drug Program, offered side-by-side, in the stocking of like products. This fluid approach would allow the MMCAP Participating Facilities to choose a product from the Wholesaler's generic drug program if the product was at a lower price than the MMCAP Contract Product. The choice would be based on price, not on the Wholesaler's generic drug product being the only product stocked.

The fluid warehousing approach requires strict adherence the following conditions:

- a. The applicable MMCAP State Contact decides if the Wholesaler's Generic Drug Program will be available to MMCAP Participating Facilities in that state.
- b. Wholesaler is not allowed to use MMCAP's contract pricing to calculate its Generic Drug Program Pricing.
- c. For consistency of communication, if Wholesaler receives requests for information regarding Wholesaler's Generic Drug Program, Wholesaler is required to direct all inquiries to MMCAP.
- d. Wholesaler's Generic Drug Program products may be ranked before MMCAP Contract Products only if an MMCAP Participating Facility has set its ordering system to rank by price and the price is lower than the MMCAP Contract Product. If an MMCAP Participating Facility ranks by contract, then the MMCAP Contract Product must appear first.
- e. Wholesaler is required to clearly label any products on its Generic Drug Program as such in its ordering system.
- f. Wholesaler is required to identify Wholesaler's Generic Drug Program products as such when Wholesaler reports sales data to MMCAP.
- g. Wholesaler will be required to pay a monthly administrative fee of 3% to MMCAP on all sales of Wholesaler's Generic Drug Program products sold to MMCAP Participating Facilities, in addition to any distributor administrative fee payments.
- h. Service fee discounts extended to MMCAP Participating Facilities will be applied to all Generic Drug Program sales.
- i. A complete list of products and pricing under the Generic Drug Program will be available for viewing in Wholesaler's ordering systems by MMCAP and MMCAP Participating Facilities.
- j. Products in Wholesaler's Generic Drug Program available to MMCAP Participating Facilities will be generic pharmaceuticals (including vitamins and over the counter products) and will not contain medical supplies or health and beauty products, unless approved by MMCAP.
- k. Wholesaler will notify MMCAP and MMCAP Participating Facilities that participate in the Generic Drug Program of in advance of its bid roll timing for its Generic Drug Program.

- Additionally, Wholesaler will notify MMCAP and MMCAP Participating Facilities of any switches in products covered under the Generic Drug Program at the time of the switch.
- l. Wholesaler is required to only institute automatic substitution upon specific request of an MMCAP Participating Facility and upon written notification by the Wholesaler to MMCAP.
 - m. If the same NDC is the same price on both an MMCAP contract and on Wholesaler's Generic Drug Program, the sale will be applied to MMCAP.
 - n. Wholesaler agrees to minimum stocking levels (three units/month) at each distribution center for all MMCAP Contract Products. Wholesaler will provide training to MMCAP Participating Facilities using Wholesaler's Generic Drug Program to include:
 1. Ordering training to all MMCAP Participating Facilities desiring training, to include ordering of non-stocked MMCAP Contract Products to be stocked as inventory in Wholesaler's distribution center and available for prompt delivery.
 2. Ranking for both MMCAP and Wholesaler's Generic Drug Program contracts by contract and by price.
 3. Filtering and sorting products to find the lowest priced item by purchased size or unit of measure.
 - o. Wholesaler is required to send MMCAP's contracted invoice auditing vendor a weekly pricing file that will include all the data necessary for the invoice auditing vendor to be able to audit the pricing invoiced to MMCAP Participating Facilities.
 - p. Wholesaler's ordering system allows MMCAP Participating Facilities the opportunity to request a MMCAP Contracted Product be stocked. This functionality requires MMCAP Participating Facilities add a quantity that Wholesaler will use to capture monthly demand.

In order to audit compliance and non-competitiveness of these requirements, Wholesaler must provide a report on a monthly basis to MMCAP that details each item that is currently available on the Wholesaler's Generic Drug Program and the product price so that MMCAP can validate that the Wholesaler's Generic Drug Program is not competing with MMCAP Contract Products. Likewise, MMCAP agrees to not utilize Wholesaler's Generic Drug Program to calculate its own MMCAP Generic Contract Pricing.

Minimum data fields required

NDC (11-digit format)
 Wholesaler product identification number
 SKU or Manufacturer's part number
 Product description (generic name)
 Packaging
 Supplier name (Manufacturer)
 Quantity Purchased
 Total Sales
 Wholesaler's Generic Drug Program Price per Unit

Wholesaler will not use MMCAP pricing or manufacturer contract terms in the Wholesaler's generic pricing program for any other use beyond managing the MMCAP contract for MMCAP Participating Facilities. Wholesaler will maintain appropriate policies, procedures, and information technology and infrastructure to ensure that only those employees of the Wholesaler that have a need to know for performance under this Contract have access to MMCAP Vendor Contracts, Product lists, discounts, prices, and any other information that would qualify as competitive information in connection with the Contracts.

B. MMCAP Participating Facility Negotiated Contracts.

Subject to Section 38 of the Contract, there will likely be instances where MMCAP Participating Facilities may enter into contracts individually negotiated by MMCAP Participating Facilities. In those instances,

the Wholesaler is required to agree that the ordering and reporting terms of the overlying contract with MMCAP will apply to contracts individually negotiated by MMCAP Participating Facilities.

C. Pharmacy Interfaces.

The Wholesaler's pharmacy interfaces with software/dispensing systems is to be developed and implemented as a service inclusion, with training and technical support related to pharmacy interfaces also included. As a service inclusion, no additional cost assessed to MMCAP Participating Facilities.

D. Business Development.

MMCAP Members benefit when opportunities to increase purchase volumes are optimized, as well as creating business wins for MMCAP vendor partners. To strengthen current relationships and develop new ones, MMCAP deploys Field Services staff to provide front-line support to current MMCAP State Contacts and MMCAP Participating Facilities and to engage state eligible entities by explaining to them the benefits available to them through leveraging the MMCAP membership contracts to their purchasing benefit. The Wholesaler will support business development opportunities, utilizing joint engagement strategies with MMCAP Field Services, to increase the use of the MMCAP contracts. Should said efforts place the Wholesaler in a position where the Wholesaler would be in breach of contract with another business partner, the Wholesaler can exempt themselves from a business development opportunity.

E. Supplemental/Additional Services.

The Wholesaler must make supplemental/additional services and products that are available to its general customers, not specifically mentioned within the resulting contract with MMCAP, available to all MMCAP Participating Facilities upon request and agreement by MMCAP and the MMCAP Participating Facilities. Any Wholesaler supplemental/additional services and products that compete with a service or product contract that MMCAP already makes available to MMCAP Participating Facilities are prohibited. Prior to providing these supplemental/additional services, the Wholesaler must provide full disclosure of the services or product fees and costs to MMCAP and receive approval from MMCAP before these services and products are provided to any MMCAP Participating Facilities.

Supplemental/additional services and products offered by Wholesaler, if approved by MMCAP, will be managed through an amendment to the Contract.

4.17 BUSINESS INTERRUPTION PLAN

The Wholesaler must have a deployable emergency preparedness and business continuity plan during the term of this Contract. During implementation and upon request by the MMCAP Participating Facility, the Wholesaler is required to work with each MMCAP Participating Facility to develop a pre-selected list of Products to be shipped in the event of a national or regional emergency. The Wholesaler's emergency preparedness and business continuity plan is to include specificity on how the Wholesaler will ensure that MMCAP Participating Facilities would continue to receive medications during a regional/national disaster or other unforeseen malfunction in pharmaceutical distribution.

The Wholesaler's emergency preparedness and business continuity plan is required to include:

- a. Up to three backup locations for each distribution center
- b. Emergency customer support and centralized command and control centers
- c. Procedures for contacting employees
- d. Strong relationships with suppliers to maintain fuel supply in the event of a shortage
- e. Working relationships with government agencies and industry trade associations

The Wholesaler's detailed Disaster Recovery Plan is to be available upon request from MMCAP or MMCAP Participating Facilities.

4.18 SHAREBACK CREDITS

The Wholesaler will manage the MMCAP annual Shareback Credit process. The annual Shareback Credit is a service inclusion, and to be managed at no additional cost or fee withhold to the MMCAP or MMCAP Participating Facilities.

The annual Shareback Credit process is expected to be managed in accordance with the schedule below:

- a. MMCAP will provide the Wholesaler a list of MMCAP Participating Facilities receiving a credit, the credit amount for each facility, and a check for the total amount of all credits to be provided.
- b. The Wholesaler is required to apply the credit to all listed MMCAP Participating Facilities within fifteen (15) business days of the receipt of the funds and the list of facilities receiving credit has been received from MMCAP.
- c. Within 30 business days of the receipt of the funds and the list of facilities receiving credit, the Wholesaler is required to provide an Excel Spreadsheet to MMCAP, detailing the credit memo information. This Excel listing must include the following fields: distribution center, account number, Participating Facility name, Participating Facility address, Participating Facility city, Participating Facility state, DEA, HIN, date of credit memo, credit memo number, and credit memo amount. In addition to supplying the credit memo detail to MMCAP, the Wholesaler will also provide a listing of all accounts that are inactive that cannot have a credit memo issued.
- d. The Wholesaler will work with MMCAP to identify all MMCAP Participating Facilities in an effort to issue all credits before refunding dollars back to MMCAP. Prior to any funds returned to MMCAP, written approval must be received from MMCAP.
- e. Within 15 business days of written approval for funds to be returned, Wholesaler is required to issue a refund to MMCAP of the remaining dollars for which it was unable to issue credit.
- f. Upon initiating the refund to MMCAP, the Wholesaler is required to provide a copy of the original Shareback Credit spreadsheet detailing the credit information (received from MMCAP), the reason for non-application of funds, and the dollar amount of the funds returned to MMCAP.

Should MMCAP change its process for the Shareback Credit to semi-annually, the Wholesaler will continue to manage this process as a service inclusion with no additional cost to or fee withheld from MMCAP or MMCAP Participating Facilities.

4.19 REPORTS

Wholesaler is required to comply with specified formats, timing, and provision of all the reports listed in this Section. Reporting is a wholesaler work product requirement, for which the Wholesaler will provide, without additional cost to either MMCAP or MMCAP Participating Facilities.

A. Reports provided to MMCAP

All electronic files supplied to MMCAP must be in a row and column format so they can be integrated into MMCAP's software systems. The data file layouts provided are to be strictly adhered to by the Wholesaler in satisfying this work product requirement.

- a. **Sales Data Report.** Wholesaler will supply to MMCAP accurate monthly sales data on or before the 10th day of the second subsequent month (e.g., June's data will be due July 10). This report MUST include the following for every transaction between the Wholesaler and the MMCAP Participating Facility, including those drop ship transactions that would be facilitated by the Wholesaler on behalf the Specialty Products Distribution company (where/when applicable):
1. The first table details the required fields for the sales data report
 2. The second table details the required record layout in fixed record format.

Required Data Field Full Name for Sales Data Report
MMCAP-assigned facility ID
MMCAP Facility Name
Vendor Distribution Center Code
Vendor-assigned Account number for the MMCAP Facility
Invoice Number
Invoice Line Number
Purchase Order Number
Invoice date (mmddccyy)
Buyer name or equivalent of buyer ID for person submitting the invoices
Vendor's (distributor) SKU item number
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc.
Label Name
Unit Dose
Pack Size
Unit
Case Size
Dose
Strength
Route
Unit Price (99999.9999)
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract

Required Data Field Full Name for Sales Data Report
Bill to Address 1
Bill to City
Bill to State (2 alpha postal code)
Bill to Zip (standard 5-4 format, no dash necessary)
Ship to Address 1
Ship to City
Ship to State (2 alpha postal code)
Ship to Zip (standard 5-4 format, no dash necessary)
Service Fee (9999.9999)
Contract Number (e.g., MMSxxxxx, Wholesaler Contract Number, etc.)
Admin fee for non-contract items (9999.9999)
Credit Indicator (C for credit)
MMCAP Assigned Wholesaler Code (<i>Codes will be assigned to Wholesaler's during implementation period of the contract</i>)
Manufacture Name (MFG Name)
Class of Trade
340b Purchase

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Monthly Sales Data Usage Report - Fixed Length Fields							
Required Data Field - Full Name	Field Name	Data Type	Format (note decimals are to be included)	Size	Nulls	Begin Column	End Column
MMCAP-assigned facility ID	MMCAP_id	Alpha Numeric		7	1	1	7
MMCAP Facility Name	MMCAP_Name	Alpha Numeric		30	1	8	37
Vendor Distribution Center Code	DistributionCenter	Alpha Numeric		3	1	38	40
Vendor-assigned Account number for the MMCAP Facility	VendAccountNo	Alpha Numeric		10	1	41	50
Invoice Number	InvoiceNumber	Alpha Numeric		15	1	51	65
Invoice Line Number	InvoiceLineNo	Alpha Numeric		4	1	66	69
Purchase Order Number	poNumber	Alpha Numeric		15	1	70	84
Invoice date (mmdccyy)	InvoiceDate	numeric	mmdccyy	8	1	85	92
Buyer name or equivalent of buyer ID for person submitting the	BuyerName	Alpha Numeric		20	1	93	112
Vendor's (distributor) SKU item number	SKU	Alpha Numeric		13	1	113	125
NDC of purchased product in 5-4-2 format as stored in First	NDC	Alpha Numeric	999999999	11	1	126	136
Label Name	LabelName	Alpha Numeric		40	1	137	176
Unit Dose	UD	numeric	9	1	1	177	177
Pack Size	Pack_Size	numeric	99999.999	9	1	178	186
Unit	Unit	Alpha Numeric		2	1	187	188
Case Size	Case_Size	numeric	9999	4	1	189	192
Dose	D	Alpha Numeric		10	1	193	202
Strength	STR	Alpha Numeric		10	1	203	212
Route	RT	Alpha Numeric		10	1	213	222
Unit Price (99999.9999)	UnitPrice	numeric	99999.9999	10	1	223	232
Quantity ordered (not Vendor repackaged or re-bundled)	QuantityOrdered	numeric	999999.9999	11	1	233	243
Quantity shipped (not Vendor repackaged or re-bundled quantity)	QuantityShipped	numeric	999999.9999	11	1	244	254
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)	ExtendedPrice	numeric	99999999.999	13	1	255	267
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item,	SaleType	Alpha Numeric		1	1	268	268
Bill to Address 1	billtoaddress1	Alpha Numeric		30	1	269	298
Bill to City	billtocity	Alpha Numeric		20	1	299	318
Bill to State (2 alpha postal code)	billtostate	Alpha Numeric		2	1	319	320
Bill to Zip (standard 5-4 format, no dash necessary)	billtozip	Alpha Numeric		9	1	321	329
Ship to Address 1	shiptoaddress1	Alpha Numeric		30	1	330	359
Ship to City	shiptocity	Alpha Numeric		20	1	360	379
Ship to State (2 alpha postal code)	shiptostate	Alpha Numeric		2	1	380	381
Ship to Zip (standard 5-4 format, no dash necessary)	shiptozip	Alpha Numeric		9	1	382	390
Service Fee (9999.9999)	ServiceFee	numeric	9999.9999	9	1	391	399
MMCAP Contract Number (MMSxxxxx)	contractnumber	Alpha Numeric		10	1	400	409
Admin Fee (9999.9999)	AdminFee	numeric	9999.9999	9	1	410	418
Credit Indicator (C for credit)	CreditIndicator	Alpha Numeric		1	1	419	419
MMCAP Assigned Wholesaler Code (AmeriSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, (New codes will be assigned to Wholesaler's during implementation period of the contract))	WholeCode	Alpha Numeric		4	0	420	423
Manufacture Name (MFG Name)	MfgName	Alpha Numeric		40	1	424	463
Class of Trade	ClassofTrade	Alpha Numeric		4	1	464	467
340b Purchase	340b	Alpha Numeric		1	1	468	468

- b. **Monthly Payment Report.** Wholesaler will provide to MMCAP accurate monthly payment data on or before the 10th day of the second subsequent month (e.g., June's data will be due July 10th):
- The first table details the required fields for the monthly payment report
 - The second table details the required record layout in fixed record format.

MMCAP Payment Data Fields
MMCAP-assigned facility ID
MMCAP Facility Name
Vendor-assigned Account number for the MMCAP Facility
Invoice Number
Invoice Line Number
Purchase Order Number
Vendor's (distributor) SKU item number
NDC of purchased Product in 5-4-2 format as stored in First <u>DataBank</u> , Inc.
Payment Due Date (<u>mmddccyy</u>)
Label Name
Packaging as associated with NDC Number
Date Payment Credited to Account (<u>mmddccyy</u>)
Quantity Purchased-must be expressed in terms of the packaging associated with the NDC (not Vendor repackaged or re-bundled quantity) (999999.9999)
Dollar Amount of Transaction-to the third decimal. The dollar amount must be the actual acquisition cost, after any discounts and service fees.
Credit Indicator (C for credit)
ID for person making the payment

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Record Layout for the Monthly Payment File - Fixed Length Fields

Long Name (from original MMCAP Agreement)	Field Name	Data Type	Format (note decimals are to be included)	Size	Nulls	Begin Column	End Column
MMCAP-assigned facility ID	MMCAP_id	Alpha Numeric		7	1	1	7
MMCAP Facility Name	MMCAP_Name	Alpha Numeric		30	1	8	37
Vendor-assigned Account number for the MMCAP Facility	VendAccountNo	Alpha Numeric		10	1	38	47
Invoice Number	InvoiceNumber	Alpha Numeric		15	1	48	62
Invoice Line Number	InvoiceLineNo	Alpha Numeric		4	1	63	66
Purchase Order Number	poNumber	Alpha Numeric		15	1	67	81
Vendor's (distributor) SKU item number	SKU	Alpha Numeric		13	1	82	94
NDC of purchased Product in 5-4-2 format as stored in First DataBank, Inc.	NDC	numeric	9999999999	11	1	95	105
Payment Due Date (mmddccyy)	DueDate	numeric	mmddccyy	8	1	106	113
Label Name	LabelName	Alpha Numeric		40	1	114	153
Packaging as associated with NDC Number	Packaging	Alpha Numeric		16	1	154	169
Date Payment Credited to Account (mmddccyy)	PaymentCDate	numeric	mmddccyy	8	1	170	177
Quantity Purchased-must be expressed in terms of the packaging associated with the NDC (not Vendor repackaged or re-bundled quantity) (999999.9999)	QuantityOrdered (Shipped)	numeric	999999.9999	11	1	178	188
Dollar Amount of Transaction-to the third decimal. The dollar amount must be the actual acquisition cost, after any discounts and service fees.	TranDollar	numeric	99999999.999	13	1	189	201
Credit Indicator (C for credit)	CreditIndicator	Alpha Numeric		1	1	202	202
ID for person making the payment	BuyerName	Alpha Numeric		20	1	203	222

- c. **Kill/Fill Report.** Wholesaler will provide to MMCAP accurate kill/fill data on or before the 10th day of the second subsequent month (e.g., June’s data will be due July 10th). This data must be provided in Excel format and submitted electronically to mn.multistate@state.mn.us . The following table details the required fields for the Kill/Fill data report:

Field Long Name – Kill/Fill Report
MMCAP ID
Customer Name
PPV Customer DC Number
Customer Distribution Center
PPV Customer Number
Address
City
State
NDC of Product in 5-4-2 format as stored in First DataBank
Invoice Number
Invoice Date
Short Reason Code
Short Reason Description
Product Trade Name
Product Generic Name
Pack Qty
Pack Size
Order Quantity
Shipped Quantity
Killed Qty
Extended Sales

- d. **Contract Change Report.** Wholesaler will provide to MMCAP accurate Contract Change data, required to be delivered the business first day of each week. This data must be provided in Excel format (may be zipped) and submitted electronically to mn.multistate@state.mn.us. The table below details the required fields from the Contract Change Report. This report must include the following for every Product added to, changed or deleted from the MMCAP Contract:

Long Field Description Name – Contract Change Report
MMCAP Office Assigned PPV Number
Contract Start Date
Contract End Date
Pharmaceutical Manufacturer Contract Number
Vendor Product ID Number
Pharmaceutical Manufacturer
Description
NDC (11 digit format)
Packaging
Current Price
Previous Price
Effective Date
Change Type (e.g., price increase, price decrease, NDC change, etc.)

- e. **Contract File Audit Report.** Wholesaler will provide to MMCAP Wholesaler’s version of the MMCAP Contract file on the first business day of each week. This data must be provided in Excel format (may be zipped) and submitted electronically to mn.multistate@state.mn.us. The table below details the required fields from the Contract File Audit Report. This report must include the following for every Product loaded and attached to the MMCAP Contract, and is to include any “non-stock” status items for Products not meeting 3 unit minimum usage Wholesaler requirements:

Long Field Description Name – Contract Audit File Report
Vendor Name
MMCAP Contract Number
Product Item Unit Number
NDC of Product in 5-4-2 format as stored in First DataBank
Manufacturer
Item Description
Vendor Reference Contract Number
Size
Form
UOM
MMCAP Contract Cost
Contract Start Date
Contract End Date

- f. **Off-contract with Alternative On-contract Report.** Wholesaler will provide to MMCAP an accurate off-contract with Alternative Item on-contract report on or before the 10th day of the subsequent month (e.g., June's data will be due on or before July 10th). This report must be provided in Excel format (may be zipped) and submitted electronically to mn.multistate@state.mn.us. This data set must include every transaction where an MMCAP Contract Product was available when an off-contract purchase was made. The table below details the required fields from the Off-Contract with Alternative On-Contract Report:

Field Long Name – Off-Contract with Alternate On-Contract Report
MMCAP ID
Customer Name
PPV Customer DC Number
Customer Distribution Center
PPV Customer Number
Address
City
State
NDC of Product in 5-4-2 format as stored in First DataBank Off Contract
Product Generic Name
Product Trade Name
Pack Size
Order Quantity
Cost
NDC of Product in 5-4-2 format On MMCAP contract
Product Generic Name
Product Trade Name
Pack Size
Cost
Difference in price from off contract to on contract

- g. **Raw and Adjusted Fill Rate Report.** Wholesaler will provide to MMCAP a Raw and Adjusted Fill Rate Report. The Raw and Adjusted Fill Rate Report must be received on or before the 10th day of the subsequent month (e.g., June's data will be due on or before July 10th). This report must be provided in an Excel format and be delivered electronically to mn.multistate@state.mn.us. The table below details the required fields from the Raw and Adjusted Fill Rate Report:

Field Long Name – Raw and Adjusted Fill Rate Report
MMCAP ID
Customer Name
PPV Customer DC Number
Customer Distribution Center
PPV Customer Number
Address
City
State
Raw Fill Rate
Adjusted Fill Rate

- h. **Wholesaler Participating Facility Listing.** Wholesaler will provide a listing to MMCAP of MMCAP Participating Facilities attached to the MMCAP Contract on or before the 10th day of the subsequent month (e.g., June’s data will be due on or before July 10th). The report must be submitted electronically to mn.multistate@state.mn.us . The table below details the required fields from the Wholesaler Member Listing:

Field Long Name – Wholesaler Member Listing
MMCAP ID
DC
VendAccountNo
shiptoname
shiptoaddress
shiptocity
shiptostate
shiptozip
billtoname
billtoaddress
billtocity
billtostate
billtozip
DEA
HIN
Service Fee Discount (COGS)

- i. **Manufacturer Backorders (MBO).** Wholesaler will provide to MMCAP, at a minimum, a weekly, accurate listing of all MMCAP Contract Products backordered due to manufacturers’ inability to supply the product(s). The report is to be delivered the first business day of each week. The report must be delivered electronically in Excel format (may be zipped to mn.multistate@state.mn.us , as well as to any other sources MMCAP designates (e.g., current vendor hosting MMCAP’s website). The table below details the required fields from the MBO Report:

Required MBO Report Fields and Record Layout
Product Description
Manufacturer
NDC
Packaging
Reason
Restock Date
Distributor Information

Manufacturer is to be spelled out, no abbreviations.
 NDC – 11 digit format as defined in First Data Bank

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- j. **Discontinued Product Report.** Wholesaler will provide to MMCAP a monthly, or more frequent, report detailing MMCAP Products which the Wholesaler deems to be discontinued. This report must identify reason for discontinuation (e.g. manufacturer discontinued, wholesaler discontinued, etc.). A monthly frequency reporting cycle is to be provided on or before the 10th day of the subsequent month (e.g., June’s data will be due on July 10th) and the Excel report must be delivered electronically to mn.multistate@state.mn.us . The table below details the required fields from the Discontinued Product Report:

Required Discontinued Product Report
NDC
Vendor Name
Item Description
Strength
Packaging
Contract Price
Status (e.g., Mfr Disc, Wlsr Disc)

- k. **Service Level Report.** Wholesaler will provide to MMCAP a monthly report detailing service levels, including MMCAP Participating Facility information, date of credit, and credit memo number, specific to the criteria set forth in Section 4.5, F.. This report is to be provide on or before the 10th day of the subsequent month (e.g., June’s data will be due on July 10th and the Excel report must be delivered electronically to mn.multistate@state.mn.us. The table below details the required fields from the Service Level Report:

Field Name - Long Name	Service Level	Report
DC Number		
DC Name		
Distributor Customer Account Number		
MMCAP ID		
Customer Name		
Bill to State		
Total Sales		
Order Qty		
Ship Qty		
Total Pieces not Shipped		
Raw SL %		
Adj SL %		
SL	Multiplier	
SL	Credit Amount	

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- 1. **Service Fee Discount Report.** Wholesaler will provide a quarterly report detailing applicable Service Fee Discounts for each MMCAP Participating Facility based on payment terms and purchase volume. Report is to be provided not later than the 20th of the month following the end of the quarter for an effective date of the last day of the month following the end of the quarter. For example, Q1 of a fiscal year is July – September. The updated Service Fee Discount report is due to MMCAP not later than October 20th, for an effective date change of October 31st. The Excel report must be delivered electronically to mn.multistate@state.mn.us. The table below details the required fields for the Service Fee Discount (COG) Report:

Field Name - Long Name	Service Level Discount (COG) Report
Distribution Center Name	
DC Number	
Distributor Account Number	
MMCAP ID	
Customer Name	
City	
State	
Payment Terms	
3 Month Average Sales	
Previous Quarter - 3 Month Average Sales	
Matrix Volume	
NEW COGS %	
OLD COGS %	
Comment	

- m. **MMCAP Participating Facilities Credit Report**

Wholesaler will provide a quarterly report detailing credits available to MMCAP Participating Facilities by account number. The report must be submitted electronically, in Excel format, to mn.multistate@state.mn.us and is due by the 15th of the month, following the end of the quarter.

Report Requirements
MMCAP Member Number
Facility Name
Facility State
DC
Wholesaler Account Number
Credit Issue Date
Credit Balance

B. MMCAP Member Reporting

The following reports are the minimum reporting requirements for the Wholesaler to make available to all MMCAP Members and these reports are to be made available online in printable copy and electronic/exportable formats (e.g., Excel).

If the Wholesaler has multiple levels of reporting packages, it is required that the Wholesaler allow MMCAP Participating Facility access to any and all reporting, whether standard, advance or analytics type of reporting, provide support to train both general and super-user of the reporting tools, as well as set-up support for super-user account structures for appropriate MMCAP Member oversight. These tools, regardless of level (standard, advance, analytics) must be provided to MMCAP Members at no additional cost for the full term of the Wholesaler Distribution Services Contract

If applicable, reports must be sortable by generic or label name, units, date range, or dollars. Additionally, units reported must correspond to the packaging associated with the NDC. Wholesaler is required to meet the reporting requirements for frequency (e.g., daily, monthly, quarterly, annually, etc.), using on-line tools for generating frequency specified reporting or ad hoc reporting options. All reporting is required to accurately report for all reporting types. Standard, aggregated, and enhanced reports are to include but are not limited to the following:

- a. Reports detailing total purchases (payment amount and units) by individual item (e.g., NDC, SKU, supplier, generic name, and/or label name);
- b. Cost savings reports associated with the use of either MMCAP Contract Products or other alternative contracts (should be compared to relevant retail pricing);
- c. Reports displaying purchases of controlled substances and the associated invoice and/or purchase order numbers along with MMCAP Participating Facility name, account number, NDC number, invoice number, invoice line number, label name, date shipped, amount paid, date payment credited, FDA schedule category, and DEA number;
- d. Velocity (80/20) report (fastest moving and highest dollar) containing forecasted velocity codes with order points and order quantities; contains cumulative percentages;
- e. Price change report, indicating products with price changes; includes percentage change in price;
- f. Physical inventory reports sorted by American Hospital Formulary Service (AHFS) pharmaceutical category. These reports must show the label name, NDC, quantity, cost per unit and the extended cost of the product units on hand;
- g. Drug usage (amount paid and units) reports by AHFS category. Percentages for each category must be provided. MMCAP Participating Facilities must be able to select all AHFS categories as well as select specific AHFS categories;
- h. A report detailing all items that were ordered, but that will not be delivered, provided to the MMCAP Participating Facility the same day the order is generated by the same method that the order was transmitted;
- i. Manufacturer backorder reports, identifying where products were not available due to manufacturers' inability to supply that captures all product alternatives purchased in its place;
- j. Product category breakdown reports, which display total procurement dollar volume for categories such as brand, generic, OTC, 340B, contract, non-contract, etc.;
- k. Invoice reports, selected by invoice number, account number, purchase order number, or at billing statement intervals;
- l. On- and off- contract reports that display total dollars spent on and off contract; MMCAP Members should be able to drill down into item purchases;
- m. Off-contract purchases with contract alternatives report; and
- n. Any other reports required by law.

ATTACHMENT B**DISTRIBUTOR ADMINISTRATIVE FEE** (Payable by Wholesaler to MMCAP)

0.20% will be paid to MMCAP on all MMCAP Member purchases (less any credits and returns) made through the Wholesaler. Distributor Administrative fees will not be paid on Prime Vendor 340B Drug Pricing Program Sales or Prime Vendor DSH sales, or on drop ship sales. Distributor Administrative fees for non-contract sales to WAC accounts (related to 340B split bill accounts) may be made available to MMCAP upon formal written request by MMCAP.

OTHER FEES (Payable by MMCAP Member To Wholesaler)

1. Deliveries

Deliveries	Routine	Emergency
\$0 - \$25,000	1 per week	12 per year
\$25,001 and up	5 per week	12 per year

- a. If a member requires more deliveries beyond the allotments specified for routine, the Wholesaler will charge an amount not to exceed \$65 per shipment.
- b. If a member requires more deliveries beyond the allotments specified for emergency deliveries, the Wholesaler will pass through the actual cost of the delivery to the MMCAP Member.
- c. Wholesaler will assess up to a \$65 delivery charge for orders consisting exclusively of items that meet the definition of bulky, OTC's and / or vaccines unless the order is greater than \$1,000. Wholesaler will not assess a delivery fee to an MMCAP Member for drop shipped deliveries, unless delivery charges are passed onto Wholesaler by the supplier.
- d. Wholesaler will not assess a delivery fee to an MMCAP Member for Specialty deliveries, unless delivery charges are passed onto Wholesaler by the supplier.
- e. Wholesaler will pass through delivery charges by the repackager to an MMCAP Member for products shipped to MMCAP's contracted repackaging vendor(s).
- f. Control substances shipping – if held to be shipped with MMCAP Member's regular order and not shipped with regular order, there will be no charge to the Member to ship it and there will be no impairment to the weekly/monthly allotment.

2. Account Set-Up Fees

- a. Wholesaler will charge \$75 as an account set-up fee, which is to be billed upon initial account set-up for the MMCAP Member electing to use MMCAP-contracted repackaging services.

3. Fees for Drop Shipments and Specialty Distribution

- a. Wholesaler will charge up to a 1% fee if Wholesaler receives 1% or less terms from manufacturer on Drop Shipment products. Additionally, any extra fees passed to Wholesaler by the drop-ship supplier, such as extra delivery expenses, will be forwarded to the MMCAP Participating Member for payment.
- b. Wholesaler will charge up to a 1% fee if Wholesaler receives 1% or less terms from specialty distribution provider. Additionally, any extra fees passed to Wholesaler by the specialty distributor, such as extra delivery expenses, will be forwarded to the MMCAP Participating Member for payment.

* In all cases, MMCAP Member reserves the right to purchase and pay directly through the drop ship vendor.

4. MMCAP Service Contracts

Service	Fees
Pharmacy Interfaces	No Charge
Contract Price Audit	No Charge
Reverse Distribution	No Charge
Repackaging*	No Charge

*Note 1.e. on Delivery charges and 2.b. on Account Set-Up Fees. In addition, Consolidation of invoicing of the services provided by the repackager will be available to MMCAP Members only if the repackager provides a separate fee to the Wholesaler under a separate negotiated agreement between the Wholesaler and repackager.

5. Reporting: No Fees

6. Inventory Support

Inventory Support	Fees
Restocking Fee	None. Returns subject to specific requirements outlined within Attachment A (Statement of Work) for Good Returned to Wholesaler.
Shelf Labels	No Charge
On-site technology support of physical inventory	Service is not available to accounts purchasing less than \$50,000 per month. Free for accounts purchasing greater than \$50,000 per month. All accounts, regardless of volume, will have access to off-site telephone or webinar support.
Handheld counting units or similar devices	Price per Device <ul style="list-style-type: none"> No Charge, one per facility.

ATTACHMENT C

Service Fee Discount Pricing Matrix							
	State Monthly Purchase Volume						
Facility Payment Terms	\$1 to \$500,000	\$500,001 to \$1,000,000	\$1,000,001 to \$2,000,000	\$2,000,001 to \$5,000,000	\$5,000,001 to \$8,000,000	\$8,000,000 to \$12,500,000	\$12,500,001 and Above
30 Day Pre-Pay	-4.29%	-4.79%	-5.04%	-5.14%	-5.24%	-5.34%	-5.44%
15 Day Pre-Pay	-4.11%	-4.61%	-4.86%	-4.96%	-5.06%	-5.16%	-5.26%
7 Day Pre-Pay	-4.02%	-4.52%	-4.77%	-4.87%	-4.97%	-5.07%	-5.17%
Next Day Pay	-4.02%	-4.52%	-4.77%	-4.87%	-4.97%	-5.07%	-5.17%
7 Day Net	-3.93%	-4.43%	-4.68%	-4.78%	-4.88%	-4.98%	-5.08%
15 Day Net / 15 Day Stmt	-3.84%	-4.34%	-4.59%	-4.69%	-4.79%	-4.89%	-4.99%
30 Day Net / 30 Day Stmt	-3.59%	-4.09%	-4.34%	-4.44%	-4.54%	-4.64%	-4.74%
45 Day Net	-2.54%	-3.04%	-3.29%	-3.39%	-3.49%	-3.59%	-3.69%
60 Day Net	-1.54%	-2.04%	-2.29%	-2.39%	-2.49%	-2.59%	-2.69%
90 Day Net	0.46%	-0.04%	-0.29%	-0.39%	-0.49%	-0.59%	-0.69%

Wholesaler Generic Drug Program Opt-Out:

Wholesaler will adjust the Service Fee Discount by +0.10% for those MMCAP Members that notify MMCAP of their decision to opt-out of allowing the Wholesaler to attach the Wholesaler's Generic Drug Program.

For example, an MMCAP Member notifying MMCAP of an opt-out decision to the attachment of the Wholesaler's Generic Drug Program, having an average pay date of 30 Day Net Pay and a state monthly purchase volume of \$2 Million to \$5 Million, the Service Fee Discount for this MMCAP Member would be adjusted from -4.44% to -4.34% .

Other Incentive:

Wholesaler will provide Failure to Supply (FTS) for those MMCAP Member States and respective Participating Facilities who provide an "opt-in" notification within 30 days of the implementation of this Contract. However those MMCAP Member States and respective Participating Facilities who do not provide notification of an opt-in election, after 30 days, will receive an additional 10 basis point adjustment to the Service Fee Discount Pricing Matrix. For example if a MMCAP Member State has a monthly purchase volume of between \$2 and \$5 million, a Participating Facility of that state with payment terms of 30 Day Net pay would receive a service fee discount of -4.54% (-4.44++0.10).

The following payment term options shall be available to each MMCAP Member:

30 Day Pre-pay: A deposit equal to 30 days purchase value is due by the 25th of the previous month. This deposit will be evaluated and adjusted quarterly based on average monthly purchases for the preceding 90 day purchases. Thereafter, payment is due on or before seven days from the date of invoice.

15 Day Pre-pay: A deposit equal to 15 days purchase value is due by the 25th of the previous month. This deposit will be evaluated and adjusted quarterly based on average monthly purchases for the preceding 90 day purchases. Thereafter, payment is due on or before seven days from the date of invoice.

7 Day Pre-pay: A deposit equal to 7 days purchase value is due by the 25th of the previous month. This deposit will be evaluated and adjusted quarterly based on average monthly purchases for the preceding 90 day purchases. Thereafter, payment is due on or before seven days from the date of invoice.

Next Day Net: Next Day Net means that the buyer will pay Wholesaler in full via EFT or bank wire on or before the next calendar day of when the invoice is received by the buyer.

Seven (7) Day Net: 7 Day Net means that buyer will pay Wholesaler in full on or before the 7th calendar day of when the invoice is received by the buyer.

Fifteen (15) Day Net: 15 Day Net means that buyer will pay Wholesaler in full on or before the 15th calendar day of when the invoice is received by the buyer.

Thirty (30) Day Net: 30 Day Net means that buyer will pay Wholesaler in full on or before the 30th calendar day of when the invoice is received by the buyer.

Forty-Five (45) Day Net: 45 Day Net means that buyer will pay Wholesaler in full on or before the 45th calendar day of when the invoice is received by the buyer.

Sixty (60) Day Net: 60 Day Net means that buyer will pay Wholesaler in full on or before the 60th calendar day of when the invoice is received by the buyer.

Ninety (90) Day Net: 90 Day Net means that buyer will pay Wholesaler in full on or before the 90th calendar day of when the invoice is received by the buyer.

Fifteen (15) Day Pay *STATEMENT*: Purchases made the 1st through the 15th of the month are due on or before the 25th of the same month. Purchases made from the 16th through the end of the month are due on or before the 10th of the following month.

Thirty (30) Day Pay *STATEMENT*: Purchases made the 1st through the end of the month are due on or before the 10th of the following month.

If any of the above-specified Payment Term due dates fall on a weekend day or local, state, or federal holiday, payment shall be due on the on the preceding business day.

Each MMCAP Member may select one of the payment term options indicated above by indicating its selection to Wholesaler. At any time during the term of this Agreement, an MMCAP Member may change its manner of paying Wholesaler upon thirty (30) calendar days' prior written notice to Wholesaler.

Wholesaler will accept Electronic Funds Transfer (EFT) for payment, but does not offer any additional discounts for paying by EFT.

Subject to state law, the MMCAP Participating Facility will notify Wholesaler of any known dispute with an invoice within 30 calendar days of receipt of the invoice, but in no event shall the invoice dispute be communicated after the invoice is due, otherwise the invoice will not be considered disputed.

The MMCAP Participating Facility shall pay all portions of a disputed invoice. If upon resolution, the disputed invoice was found to be in error, Wholesaler shall credit the original amount of the invoice and rebill the MMCAP Participating Facility within five (5) business days.

Where the above is prohibited by an MMCAP Member State’s applicable law(s), the Wholesaler shall comply with requirements of that state’s law(s) related to disputed invoices. If state law prohibits the complete payment of a disputed invoice, any outstanding amount will not be held against the MMCAP Participating Facility when calculating service fee discounts, nor will interest or penalties apply.

Wholesaler and MMCAP Participating Facility will make a good faith effort to resolve known disputes related to contract pricing within 30 calendar days of notice of the dispute. This clause will in no way be deemed a limitation on the Parties as it relates to the future auditing and/or correction of invoices.

Unless otherwise prohibited by state law, where an MMCAP Member disputed invoice is found to be incorrect, the MMCAP Member may be liable for interest and penalties, as set forth in Section 4.13 G. Late Payment.

Wholesaler will apply service fee discounts to all emergency deliveries.

Service fee discounts will be applied to MMCAP Contract Products that also meet the definition of Bulky Products including MMCAP contracted nutritionals, MMCAP contracted large volume parenterals and MMCAP contracted IV fluids. Service fee discounts will be applied to Non- Contract Products, (including Wholesaler’s Generic Drug Program Products), with the exception of Non-Contract Products that also meet the definition of Bulky Products.

Service fee discounts will not be applied to MMCAP Contract Products that are drop shipped. Service fee discounts will be applied to MMCAP Contract Products that must be drop shipped due to a Wholesaler-created Stock Outage (excluding situations where the manufacturer is unable to supply the MMCAP Contract Product). Service fee discounts will be not be applied to Non-Contract Drop Shipment Products that do not meet the definition of Bulky Products.

Application of Service Fee Matrix	Yes	No
MMCAP Contract Products	X	
MMCAP Contract Bulky Products	X	
MMCAP Contract Products and Non-Contract products that are Drop Shipped		X
MMCAP Contract Product for which due to Wholesaler stocking error, must be Drop Shipped to meet the needs of the MMCAP Member	X	
Wholesaler’s Generic Source Program	X	
Non-Contract (Generic/Brand)	X	
Non-Contract Bulky Products		X

All changes to the MMCAP Service Fee Matrix will be communicated to MMCAP in writing with a minimum of five (5) business days’ notice. Wholesaler service fees may only change on a quarterly or less frequent basis. The only exception to this provision is if the MMCAP Member is not currently contracting with Morris & Dickson for the services set forth in Attachment A, and the MMCAP

Member's or MMCAP Member's state has a provision which does not allow for payment of service charges for late payment. In this event, the MMCAP Member's or MMCAP Member's service fee will be updated after 30 days of service based on average days payment over the first 30 days of service

Prompt Pay Discount

Wholesaler will offer a prompt pay discount of 0.10% (ten basis points) paid as a rebate for payment prior to 15 days in advance of the invoice due date. The prompt pay discount is exclusively available on individual orders over \$50,000. Prompt pay discounts must be processed as a special order through the Member's sales representative.

Large Volume Order Discount

Wholesaler will offer 0.10% (ten basis points) discount for individual orders over \$100,000. Large volume order discounts must be processed as a special order through the Member's sales representative.



Returned Goods / Direct Supplier Credits

Policy

REQUIREMENTS

- All returned products must be purchased from the Morris & Dickson distribution center, and returned electronically via the M&D Web Portal.
- There will be no associated fees charged for the following returns, with credit amounts issued at 100%:
 - a. Products returned due to Wholesaler error (e.g., incorrect item or quantity).
 - b. Products received through the Wholesaler with visible or concealed damages.
 - c. Products received through the Wholesaler but without appropriate temperature-controlled packaging.
 - d. Recalled products, regardless of level of recall.
 - e. Products received through the Wholesaler that have less than six (6) months shelf life dating at the time of receipt from the Wholesaler, unless otherwise authorized in writing by the MMCAP Member.

Order shortages, filling errors and damaged shipments must be reported within three (3) business days of the occurrence and returned within ten (10) business days of the original invoice date. Products must be returned in original condition with no defects or adulteration in packaging or labeling. Wholesaler will not hold credits owed to ordering customer from manufacturers in arrears with Wholesaler.

- Morris & Dickson does not accept partial bottles or packages for return. Product must be unopened with seals intact and otherwise not adulterated. (We do however work with many of the partial return companies to issue credits.)
- Morris & Dickson does not accept drop ship product for return.
- All products accepted for return by Morris & Dickson will be credited within 15 working days from date goods are received.
- Credits shall not exceed purchase price.
- All refrigerated or non-refrigerated products must be returned under proper storage and shipping conditions per PDMA/FDA/Manufacturer requirements. No additional fees on products that are handled properly. If product is returned in unsuitable condition, no credit will be granted.
- Morris & Dickson will not accept product for return if designated "non-returnable". A list of non-returnable items is available upon customer request.



- Morris & Dickson will exercise caution before accepting returns designated “extreme risk” for counterfeiting. For those items that fall outside the “non returnable” category, Morris & Dickson will maintain sole discretion of accepting return. Salesperson authorization required, as well as conclusive verification the item was purchased from Morris & Dickson.
- Morris & Dickson will not accept “special ordered” product for return. Special order is defined as any order Morris & Dickson makes with a manufacturer to satisfy a specific customer’s order request.
- Morris & Dickson will not accept returns from a contract pharmacy unless product is shipped in error or damaged during shipment. Product must be reported to Morris & Dickson as such, and returned within two days of receipt.
- Returns will be picked up by Morris & Dickson Monday through Wednesday. Return product will not be picked up Thursday through Saturday – in effort to protect product integrity.
- Credit will be as follows:

Returns Made Within:	Credit Amount:
1 - 60 Calendar Days from Invoice Date	Credit at 100% of Invoice Amount
61 – 180 Calendar Days from Invoice Date	Credit at 85% of Invoice Amount
181 - 365 Calendar Days from Invoice Date	Credit at 70% of Invoice Amount
Returns Greater than 365 Calendar Days from Invoice Date	Same provisions as out of date policy (see below)

Outdates:

- Outdates are defined as expired or products with less than seven (7) months dating.
- Credits will be issued at the lower of:
 - a. purchase price less 25% less manufacturer processing fee
 - b. manufacturers authorized credit amount

DIRECT MFG CREDITS

- Manufacturer credit will be passed on to the customer for convenience credit categories not related to distribution services. Types of convenience credit categories affected may include drop ship credits, reverse distribution credits, supplemental mfg program credits, mfg rebates, and sharebacks.

Attachment E

Each MMCAP Member's Member-requested Participation Agreement (MPA) shall be, to the extent applicable, attached and incorporated as an Exhibit into this Attachment by amendment.

AMENDMENT NO. 1 TO MMCAP CONTRACT NO. MMS15002

THIS AMENDMENT is by and between the State of Minnesota, through its Commissioner of Administration, on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Morris & Dickson Co., LLC, whose designated business address is 410 Kay Lane, Shreveport, Louisiana 71115 ("WHOLESALER").

MMCAP has a contract with the Wholesaler identified as MMCAP Contract No. MMS15002 ("Original Contract") to provide the services of a pharmaceutical wholesaler to distribute pharmaceuticals, over the counter products, nutritionals, and vaccines to MMCAP members.

Amendment
(DLB)

This Amendment will be effective January 1, 2015, and continue until the end of the term of the Original Contract.

Revision 1: Upon request of the **State of Oklahoma**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Oklahoma as their selected wholesaler in accordance with the Contract and amended Attachment E, E-1, which is attached and incorporated.

Except as amended, the terms and conditions of the Original Contract and any previous amendments remain in full force and effect.

1. Morris & Dickson Co., LLC.

This certifies that the appropriate person(s) have executed this Agreement on behalf of the Wholesaler as required by applicable articles, bylaws, resolutions, or ordinances.

By: *Melinda Clark*
Title: *Director*
Date: *12-31-14*

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: *Samaha Christensen*
Title: *Pharmacy Analyst*
Date: *12-31-14*

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: *Saratunbow, PharmD, BCPS*
Date: *12-31-14*

AMENDMENT NO. 2 TO MMCAP CONTRACT NO. MMS15002

THIS AMENDMENT is by and between the State of Minnesota, through its Commissioner of Administration, on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Morris & Dickson Co., LLC, whose designated business address is 410 Kay Lane, Shreveport, Louisiana 71115 ("WHOLESALER").

MMCAP has a contract with the Wholesaler identified as MMCAP Contract No. MMS15002 ("Original Contract") to provide the services of a pharmaceutical wholesaler to distribute pharmaceuticals, over the counter products, nutritionals, and vaccines to MMCAP members.

Amendment

This Amendment will be effective February 1, 2015, and continue until the end of the term of the Original Contract.

Revision 1: Upon request of the **State of Arkansas**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Arkansas as their selected wholesaler.

Revision 2: Upon request of the **State of Louisiana**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Louisiana as their selected wholesaler.

Revision 3: Upon request of the **State of Mississippi**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Mississippi as their selected wholesaler.

Revision 4: Effective when signed, Section 39 is added to the Original Contract:

39. Antitrust. The Wholesaler hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this agreement resulting from antitrust violations that arise under the antitrust laws of the United States and/or the antitrust laws of the State of Minnesota.

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AMENDMENT NO. 2 TO MMCAP CONTRACT NO. MMS15002

Except as amended, the terms and conditions of the Original Contract and any previous amendments remain in full force and effect

1. Morris & Dickson Co., LLC.

This certifies that the appropriate person(s) have executed this Agreement on behalf of the Wholesaler as required by applicable articles, bylaws, resolutions, or ordinances.

By: Mike Curda
Title: Director of Sales
Date: 1/27/15

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: Sandy Christensen
Title: Pharmacy Analyst
Date: 1-28-15

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: Jan Hoang, PharmD, MBA
Date: January 28, 2015

AMENDMENT NO. 3 TO MMCAP CONTRACT NO. MMS15002

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Morris & Dickson Co., LLC, 410 Kay Lane, Shreveport, LA 71115 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS15002 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(1234JV)

This Amendment will be effective February 1, 2015, and continues until the end of the term of the Original Contract.

Revision 1: Upon request of the **State of Kansas**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Kansas as their selected wholesaler in accordance with the Contract and amended Attachment E, E-2, which is attached and incorporated.

Except as herein amended, the provisions of the Original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

1. MORRIS & DICKSON CO., LLC

The Vendor certifies that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: *Mike Cuelled*
Title: Director of Sales
Date: 2/9/15

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: *Lyn VandePlatts, CPMT*
Title: SPT-P
Date: 2/9/2015

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: _____
Title: _____
Date: _____

By: *Heather Cherkitt*
Title: _____
Date: Feb. 9, 2015